



1998

Illinois Register

Rules of Governmental Agencies

Volume 22, Issue 31—July 31, 1998

Pages 14,003 - 14,365



Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.sos.state.il.us>

published by
George H. Ryan
Secretary of State



Printed on recycled paper

Ill. Chicago Kent Law

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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 17, 1998 - Issue 16: Through	March 31, 1998
July 17, 1998 - Issue 29: Through	June 30, 1998
October 16, 1998 - Issue 42: Through	September 30, 1998
January 15, 1999 - Issue 3: Through	December 31, 1998 (Annual)

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Prequalification and Bidder Responsibility

2) Code Citation: 44 Ill. Adm. Code 950

3) Section Numbers: Proposed Action:

950.110 Amendment
950.130 Amendment
950.140 Amendment
950.150 Amendment
950.170 Amendment
950.180 Amendment
950.200 Amendment
950.210 Amendment
950.300 Amendment
950.310 Amendment
950.320 Amendment
950.340 Amendment
950.350 Amendment
950.370 Amendment
950.390 Amendment
950.400 Amendment
950.410 Amendment
950.420 Amendment
950.440 Amendment
950.450 Amendment

4) Statutory Authority: Implementing and authorized by Section 9.06 of the Capital Development Board Act (20 ILCS 3105/9.06) and Sections 5-25 and 30-20 of the Illinois Procurement Code [30 ILCS 500].

5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking amends pertinent Sections to reflect the requirements of the new Illinois Procurement Code.

6) Will this proposed amendment replace an emergency rule current in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporation by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This proposed amendment does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this

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Proposed rulemaking: From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Fredrick W. Hahn, Chief Counsel
Capital Development Board
3rd Floor, Wm. G. Stratton Bldg.
Springfield, Illinois 62706
Telephone: 217/782-0700

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporation affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendment(s) begins on the next page:

CAPITAL DEVELOPMENT BOARD

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT
CHAPTER XII: CAPITAL DEVELOPMENT BOARD

PART 950

PREQUALIFICATION AND BIDDER RESPONSIBILITY

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CONDITIONAL PREQUALIFICATION RESPONSIBILITY-DETERMINATION

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950.210	Causes for Suspension, Debarment, Modification of Ability to Bid, or Conditional Prequalification Responsibility-Determination

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AUTHORITY: Implementing and authorized by Section 9.06 of the Capital Development Board Act [20 ILCS 3105/9.06] and authorized by Sections 5-25 and 30-20 of the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1890, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20299, effective October 1, 1984; emergency amendment at 9 Ill. Reg. 3821, effective March 5, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 10659, effective July 3, 1985; amended at 9 Ill. Reg. 17321, effective October 29, 1985; amended at 12 Ill. Reg. 9860, effective May 27, 1988; amended at 16 Ill. Reg. 12424, effective July 28, 1992; Part repealed, new Part adopted at 19 Ill. Reg. 15607, effective November 2, 1995; amended at 20 Ill. Reg. 15222, effective November 15, 1996; amended at 22 Ill. Reg. _____, effective _____.

SUBPART A: BIDDER RESPONSIBILITY

Section 950.110 Purpose

The Capital Development Board (CDB) contracts shall be awarded only to responsible contractors. A prospective contractor must affirmatively demonstrate its responsibility, including, when necessary, the responsibility of its proposed subcontractors and suppliers. In the absence of information clearly indicating that the prospective contractor is responsible, CDB shall make a determination of non-responsibility. Only responsible contractors shall be prequalified, and only prequalified contractors shall be permitted to bid on CDB projects. A determination of nonresponsibility may be made at any time prior to award of a contract.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.130 Definitions

The following definitions shall apply to this Part:

"CDB" means the Capital Development Board.

"Contract Requirements" consist of any and all provisions of the CDB contract, which include, but are not limited to the following:

The timely submittal of all post-award requirements.

Material compliance with all applicable statutory requirements, local, State and federal laws, environmental and regulatory requirements and CDB Rules and Resolutions.

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Payment of prevailing wage rate as determined by the Illinois Department of Labor.

Adherence to alternative dispute resolution provisions.

Material compliance with all Minority and Female Business Enterprise Act requirements and workforce hiring goals.

Timely payment to subcontractors and suppliers, unless rightfully withheld and the contractor does not request payment from CDB.

Material compliance with project schedules.

Maintaining applicable licensing requirements.

"Contractor" or "Bidder" means a firm that is in the business of constructing some or all aspects of building projects.

"Key Person" means any individual who holds $\frac{5}{8}$ 7-1/2% or more ownership interest in the firm. In the event the firm is owned by another corporation, partnership, trust or business association, any individual within that firm who holds a $\frac{5}{8}$ 7-1/2% or more ownership interest is considered a "key person". Regardless of ownership interest, any officer, partner or director is considered a "key person". This definition also includes any individual who assumes the responsibility of an officer, owner, partner, director, etc., regardless of ownership interest.

"New Bidder" is one that has no history of performance with CDB or who has been inactive for more than 3 years. Work history is determined in accordance with Section 950.170. Bidders who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing non-responsible bidder will be declared non-responsible unless the new organization can demonstrate it was not set up for the purpose of avoiding an earlier declaration of non-responsibility.

"Performance Record" consists of but is not limited to the following:

Evidence of material compliance with all CDB contract requirements as referenced.

Data indicating the contractor has maintained quality workmanship and has met all contract requirements on previous contracts, private and public.

"Responsibility" is a determination made by CDB that the contractor is a responsible contractor. The determination may be made at any time

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prior to award of a contract. Because responsibility is affected by such things as financial resources, performance records, and organizational and operational factors, all of which are subject to change, the initial determination of responsibility, made through evaluation of a new or renewal application to CDB, may be changed upon receipt of additional or different information. The contractor is required to inform CDB of any significant change to the information submitted in its application. Each prospective bidder must provide the CDB with adequate documentation of responsibility. The CDB will ordinarily provide forms for this information. The CDB may supplement this information from other sources and may require additional documentation at any time. For ease of administration, the basic information generally will be garnered through the contractor/bidder responsibility application in the case of new bidders. The renewal application unless the contractor fails to demonstrate a satisfactory performance record with CDB, as evidenced by performance evaluations, in which case the contractor must complete a contractor/bidder responsibility application. CDB reserves the right to demand completion of a contractor/bidder responsibility application at any time. A responsibility determination will also be verified on an ongoing basis through other information, including performance evaluations and reference contacts.

"Responsible Contractor" is a firm that:

Has adequate financial resources to perform the contract, or the ability to obtain them. This includes, but is not limited to, the ability to obtain required bonds and insurance from sureties and insurance companies acceptable to CDB.

Is able to comply with the contract requirements, considering the firm's other business obligations.

Has a satisfactory performance record.

Has a satisfactory record of integrity and business ethics.

Has the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them. This includes, but is not limited to, qualified supervisory personnel and a work force qualified to meet CDB contract work force requirements.

Has the necessary production, construction, and technical equipment and facilities, or the ability to obtain them.

Has a current DHR number or application pending.

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Is otherwise qualified and eligible to receive a contract award under applicable laws and regulations.

"Responsive Bidder" means a person or firm who has submitted a bid that conforms in all material respects to the invitation for bids. Those who submit bids which are not in conformance with the requirements of the invitation for bids will be determined to be non-responsive, which factors include, but are not limited to:

Failure to adequately demonstrate responsibility.

Submission of a bid late, in pencil, or in a manner that reveals the bid price prior to the bid opening (e.g., by facsimile).

Submission of a bid that is not in substantial conformance with the bidding documents.

Submission of bid security that is not in substantial compliance with the requirements of the bidding documents.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.140 Special Projects

When CDB determines a construction project is so large or specialized that a special bidder prequalification and responsibility determination is appropriate, CDB may set appropriate standards of acceptability different from those set out herein. Other provisions of this Part shall remain applicable.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.150 Confidentiality

Documents relating to responsibility determinations of a contractor shall be maintained by CDB in a separate file and shall remain confidential as records pertaining to occupational registration, except that they shall be subject to complete disclosure to the contractor to which they relate and to units of federal, State, or local government, including but not limited to law enforcement agencies. Nothing herein shall be construed to mean that CDB is required to disclose to the contractor the name of any person or organization filing a complaint or providing information to CDB when the complaint or information is used by CDB as the basis for further inquiry into the facts alleged. CDB may release to anyone the contractor's prequalification responsibility-determination status with CDB.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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_____)

Section 950.170 Processing of Contractor Prequalification and Bidder Responsibility and Renewal Applications Application

a) New bidders must complete a contractor prequalification and bidder responsibility application. Unless the applicant is a new bidder or fails to demonstrate a satisfactory performance record with CDB as evidenced by performance evaluations, the responsibility determination will be verified by a renewal application.

b) Processing of contractor prequalification and bidder responsibility applications by CDB may require up to 45 days.

c) Applications for renewal will be sent to contractors 60 days before the expiration of a current prequalification responsibility determination. Contractors who do not receive an application are responsible for contacting CDB prior to expiration to request an application. Such applications may require up to 45 days for processing depending upon disclosure of changes of information from the last application. Those applications nearing the end of the 45 day processing time will be notified accordingly.

d) Applications may be sent to CDB by facsimile, provided that the original application is received by CDB within five business days. Applications sent by facsimile may require up to 45 days for processing.

e) CDB shall review and evaluate each application received, which may include one or more of the following actions:

- 1) Reviewing to determine whether the application is filled out in accordance with the instructions provided.
- 2) Contacting work references or any other possible sources of pertinent information.
- 3) Requesting additional information from the applicant.
- 4) Reviewing CDB contractor performance evaluations.
- 5) Meeting with the applicant at the request of CDB or the applicant.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.180 Ineligibility

A contractor, whether or not previously or currently prequalified and determined to be responsible by CDB, may be ineligible to bid under the following circumstances:

- a) The contractor fails to meet statutory or regulatory requirements other than those set out in this Part.
- b) The contractor has inadequate relevant experience in construction contracting to undertake CDB projects. In determining whether a contractor has adequate relevant experience, CDB will consider the size, type, number, and recency of past private and public contracts

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- of the firm, its predecessors, or key persons with the firm.
- c) The contractor has inadequate resources to meet the CDB contractual work force requirements. CDB shall not make a determination of responsibility for any contractor who has the appearance of being a broker, rather than a conventional construction business. In determining whether a contractor is a broker or a firm with inadequate resources, CDB may consider one or more of the following:
- 1) Whether the contractor maintains and works from a separate conventional office which is not a residence or offices for other businesses.
 - 2) Whether the contractor maintains a full-time office and construction staff consisting of clerical, managerial, and supervisory personnel.
 - 3) Whether key persons with the firm have an educational and work experience background that makes the key persons sufficiently expert and knowledgeable to carry out CDB construction projects.
 - 4) Whether the contractor owns equipment, tools, machinery, materials or supplies used on construction projects.
 - 5) Whether the contractor has financial resources related to or generated by the construction business.
 - 6) Whether the contractor has historically subcontracted for a percentage of the work in construction contracts exceeding the requirements of CDB contracts.
 - 7) Whether key persons with the firm are engaged in non-construction businesses.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART B: SUSPENSION, DEBARMENT, MODIFICATION OF ABILITY TO BID, AND CONDITIONAL PREQUALIFICATION RESPONSIBILITY-DETERMINATION

Section 950.200 Actions Affecting Prequalification Responsibility

- At any time, CDB may consider whether action should be taken concerning prequalification a--responsibility--determination. Actions that may be taken include one or more of the following:
- a) Interim or Emergency Suspension or Modification
CDB may summarily suspend or modify a contractor's prequalification responsibility--determination in accordance with Section 16 of the Capital Development Board Act [20 ILCS 3105/16].
 - b) Debarment
CDB may debar a contractor to exclude it from bidding for CDB contracts as authorized herein or by statute. The period of debarment shall be not less than five years and may be permanent when warranted or as authorized by law.
 - c) Modification of Ability to Bid
CDB may modify or limit a contractor's prequalification ability-to-bid

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- as appropriate, including, but not limited to one or more of the following:
- 1) Limiting the dollar amount a contractor may bid for a specified period of time, or until a current contract is substantially complete.
 - 2) Limiting the number of CDB contracts a contractor may enter into for a specified period of time, or until a current contract is substantially complete.
 - 3) Limiting the aggregate dollar amount of contracts the contractor may enter into, considering both public and private contracts.
 - 4) Imposing limits as set forth above pending performance on the contractor's next CDB contract(s), in instances where the contractor has no current CDB contracts.
 - d) Conditional Prequalification Responsibility-Determination
CDB may condition prequalification a-determination-of--responsibility (which may be otherwise limited) on the contractor's successful utilization of a management plan, evaluations, conferences, or other methods designed to achieve satisfactory performance or compliance with contract requirements.
 - e) Suspension
CDB may suspend a contract or disqualify a contractor temporarily from contracting with CDB, for a period of time up to five years one--year. The contractor's failure to timely pursue administrative action as provided by Subpart D of this Part shall constitute consent of the contractor to CDB's action.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.210 Causes for Suspension, Debarment, Modification of Ability to Bid, or Conditional Prequalification Responsibility-Determination

- CDB may determine a contractor is not responsible and suspend, debar or otherwise modify or issue a conditional prequalification determination based upon one or more of the following:
- a) Failure to satisfactorily perform work on CDB contract(s), private contract(s), or other governmental contracts.
 - b) Breach of the terms of a CDB contract(s), private contract(s), or other governmental contract(s).
 - c) Making false or misleading statements, or failing to disclose or update significant information in connection with CDB procedures or documents, including but not limited to the contractor bidder responsibility application or renewal application.
 - d) Violation of civil or criminal federal or State statutes or administrative rules and regulations. In the case of criminal violations, indictment shall constitute adequate evidence for a determination of non-responsibility.
 - e) Financial instability which may be evidenced by bankruptcy, failure to

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timely pay subcontractors, difficulty in obtaining acceptable bonding, attempts to assign contract proceeds, or other indications of serious business management deficiencies.

- f) Failure to understand, accept or utilize CDB procedures and standards, which results in the extraordinary expenditure of CDB resources.
- g) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, or conduct indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a contractor.
- h) Suspension, debarment, or limits on bidding contracts by any other governmental body.
- i) Any other cause of so serious or compelling a nature that it affects the present responsibility of a contractor.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART C: APPLICATION OF CDB ACTION

Section 950.300 General

Suspension, debarment, nullification of prequalification responsibility, modification of prequalification responsibility, or issuance of conditional prequalification responsibility--determination, by CDB is applicable to a contractor's direct contracts with CDB and to subcontracts on CDB projects, unless otherwise determined under Section 950.360.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.310 Violation of CDB Order

When a contractor works as a subcontractor on a CDB project in violation of Section 950.300, or otherwise violates terms or conditions imposed by CDB, CDB may extend the term of suspension, debarment, nullification, modification, or conditional prequalification responsibility, or otherwise limit or condition the ability to bid on contracts with CDB.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.320 Nullification of Prequalification Responsibility

When CDB determines that a contractor has knowingly made a material misrepresentation in its application for prequalification a responsibility determination, the contractor may not re-apply to CDB for a period of three years.

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- a) When the contractor has not previously applied to CDB, or it failed to reapply, the three year period shall begin on the date of the submittal of the application.
- b) When the contractor has been determined to be responsible in error, the three year period shall begin on the date the current responsibility determination was made.
- c) CDB will notify the contractor of the nullity. The contractor may, within 30 days after notification, submit a written explanation with supporting documentation for CDB's review.
- d) CDB may cancel awards or terminate any contracts awarded that were based upon the application with misrepresentations.
- e) A material misrepresentation is made by knowingly submitting any untrue, misleading or deceptive information or document containing such information, or by the concealment, suppression or omission of any information, in or from an application, which causes CDB to act differently than it would have if it had known the undisclosed or true information.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.340 Debarment

CDB may debar a contractor to exclude it from bidding on CDB projects as provided herein or otherwise provided by statute. CDB will consider debarment in cases so serious and egregious in nature that a loss in excess of five years up to a permanent loss of bidding privileges may be warranted. In addition to the causes listed in Section 950.210, causes for debarment may include but not be limited to multiple or repetitive criminal convictions or multiple non-responsibility determinations. Actions to debar a contractor shall not prevent CDB from taking any other action under this Part. Following a period of debarment, when a contractor submits a prequalification responsibility application to CDB, the application shall be deemed to be a first-time application rather than one for renewal.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.350 Reapplication for Prequalification Responsibility Determination

When a contractor submits a prequalification responsibility application to CDB during or following a period of debarment, suspension, nullification, modification of ability to bid, or conditional prequalification responsibility determination, the contractor must affirmatively demonstrate its responsibility, including demonstrating that the reason for imposition of suspension, debarment, nullification, modification, or condition has been remedied.

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(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.370 Effect on Current Contracts

Current CDB contracts may be terminated when a contractor is determined to be non-responsible and it is in the public interest to do so, whether or not the non-responsibility has a direct connection with the current contract. Contracts may be terminated with or without further action on the contractor's prequalification responsibility.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.390 Settlement

Notwithstanding any provision of this Part, the parties to any contested matter concerning contractor prequalification responsibility may at any time enter into an agreement to resolve prequalification responsibility issues by settlement.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.400 Review

When information which places a contractor's responsibility and prequalification in question comes to CDB's attention, CDB shall review the facts and documentation. If further inquiry is desirable, it may do such further inquiry, which may result in an informal conference with the contractor and its appropriate staff members with CDB.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.410 Conference

When requesting a conference with a contractor, CDB's letter shall request that the contractor bring to the conference any documents, personnel, or other information pertinent to responsibility that it wishes for CDB to consider. The contractor may bring its attorney to the conference, if desired. Within a reasonable time in advance of the conference, CDB shall furnish the contractor with all information in its possession pertinent to the responsibility and prequalification issue, and shall further advise the contractor in writing that it has the right to inspect its file.

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(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.420 Executive Director

Following CDB's conference with the contractor, the committee shall forward a recommendation as to a determination of responsibility and prequalification to the Executive Director for consideration. The contractor will be notified in writing of the Executive Director's decision.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.440 Final Consideration

Following the completion by the contractor of procedures in Sections 950.410 and 950.430 of this Part, any contractor whose prequalification bidding-status has been denied, suspended, debarred, nullified, conditioned, modified or limited by CDB may petition the Capital Development Board for a final consideration before the Board of the Executive Director's decision. The petition for final consideration shall be in writing, and shall be submitted within 15 days after the contractor's receipt of the Executive Director's decision on the request for reconsideration. The petition shall state the issues the contractor wishes to bring before the Board, shall contain a brief statement of the contractor's position on each issue, and shall include as attachments all documentary supporting evidence the contractor wishes for the Board to consider. The petition shall be heard at the Board's next regularly scheduled meeting, provided the meeting is at least 20 days from the date CDB receives the contractor's petition. The contractor shall appear at the meeting and present its case in an informal manner to the Board, and may be assisted by an attorney or other persons as desired. The individual Board members may ask questions as appropriate. Minutes of the proceeding shall be taken. The Board will issue its decision within 30 days after the proceedings.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 950.450 Burden of Proof

Any determination pursuant to this Part may be made when CDB possesses documentation of one or more of the factors described in Section 950.180, 950.210, or 950.320. Such documentation constitutes a presumptive determination of non-responsibility. The contractor is entitled to rebut the presumption, through procedures described in this Subpart, but the presumption will not be overturned unless the contractor shows, by a preponderance of evidence, that each factor cited by CDB in support of its determination of non-responsibility is not present. CDB's determinations are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or

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contrary to law.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Hearing Procedures

2) Code Citation: 71 Ill. Adm. Code 100

3) Section Numbers: 100.250
Proposed Action: Amendment

4) Statutory Authority: Implementing the Capital Development Board Act [20 ILCS 3105] and Article 10 of the Illinois Administrative Procedure Act [5 ILCS 110/Art.10] and authorized by Section 1A-11 of the Capital Development Board Act [20 ILCS 3105/1A-11].

5) A Complete Description of the Subjects and Issues Involved: Clarifies the process for any administrative hearings.

6) Will this proposed rule replace an emergency rule current in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporation by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This proposed rule does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: From the date that this notice first appears in the *Illinois Register*, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Fredrick W. Hahn, Chief Counsel
Capital Development Board
3rd Floor, Wm. G. Stratton Bldg.
Springfield, Illinois 62706
Telephone: 217/782-0700

2) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporation affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED AMENDMENT(S)

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated when the two most recent regulatory agendas were published.

The full text of the Proposed Amendment begins on the next page:

Section	
100.110	Applicability
100.120	Request for Hearing
100.130	Waiver
100.140	Settlement
100.150	Representation
100.160	Hearing Officer
100.170	Submittal of Documents
100.180	Conference
100.190	Notice of Hearing
100.200	Costs of Hearing
100.210	Disqualification of Officer
100.220	Hearings
100.230	Board Documents
100.240	Powers of the Hearing Officer
100.250	Burden of Proof
100.260	Duties of the Hearing Officer
100.270	Executive Director's Decision
100.280	Petition for Reconsideration
100.290	Final Consideration

AUTHORITY: Implementing the Capital Development Board Act [20 ILCS 3105] and Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and authorized by Section 1A-11 of the Capital Development Board Act [20 ILCS 3105/1A-11].

SOURCE: Adopted at 8 Ill. Reg. 20269, effective October 1, 1984; amended at 9 Ill. Reg. 17306, effective October 29, 1985; Part repealed, new Part adopted at 20 Ill. Reg. 15236, effective November 15, 1996; amended at 22 Ill. Reg. _____, effective _____.

Section 100.250 Burden of Proof

Documents filed by the Board pursuant to Section 100.230 of this Part, at least 15 days prior to hearing, shall constitute prima facie evidence, which may be rebutted by a complainant. The burden shall be upon the complainant to prove by clear and convincing evidence that the Board's action complained of was an abuse of discretion. CDB's determinations are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED AMENDMENT(S)

TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY
CHAPTER I: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER a: RULES
PART 100
HEARING PROCEDURES

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENT(S)

_____)

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Prequalification of Architects and Engineers

2) Code Citation: 44 Ill. Adm. Code 980

3) Section Numbers: Proposed Action:

980.120 Amendment
980.300 Amendment
980.310 Amendment
980.430 Amendment
980.540 Amendment

4) Statutory Authority: Implementing the Capital Development Board Act [20 ILCS 3105] and authorized by Section 1A-11 of that Act.

5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends certain Sections to reflect the requirements of the new Illinois Procurement Code.

6) Will this proposed rule replace an emergency rule current in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporation by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This proposed rule does not create or expand State mandates as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: From the date that this notice first appears in the *Illinois Register*, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Fredrick W. Hahn, Chief Counsel
Capital Development Board
3rd Floor Wm. G. Stratton Bldg.
Springfield, Illinois 62706
217/782-0700

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporation affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENT(S)

- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the proposed rule begins on the next page:

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT
CHAPTER XII: CAPITAL DEVELOPMENT BOARD

PART 980

PREQUALIFICATION OF ARCHITECTS AND ENGINEERS

SUBPART A: RESPONSIBILITY

Section	Purpose
980.110	Definitions
980.120	Prequalification Required
980.130	Special Projects
980.140	Confidentiality
980.150	Sources for Determining Responsibility
980.160	Department of Professional Regulation Action
980.170	Prequalification of Firms and Office Locations
980.180	Types of Profile Codes
980.190	Processing of Architect-Engineer Prequalification Application
980.200	Ineligibility
980.210	

SUBPART B: SUSPENSION, DEBARMENT, MODIFICATION OF
PREQUALIFICATION, AND CONDITIONAL PREQUALIFICATION

Section	
980.300	Actions Affecting Responsibility and Prequalification
980.310	Causes for Suspension, Debarment, Modification of Prequalification, and Conditional Prequalification
980.320	Nullification of Prequalification

SUBPART C: APPLICATION OF CDB ACTION

Section	
980.400	General
980.410	Violation of CDB Order
980.420	Denial of Award of Contract
980.430	Debarment
980.440	Reapplication for Prequalification
980.450	Extension of CDB Action
980.460	Effect on Current Contracts
980.470	Basis of Decisions
980.480	Settlement

SUBPART D: PROCEDURES

Section	
980.500	Review

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"Parent Office" means the primary location of the A/E's place of business.

"Key Person" means any individual who holds $\frac{5}{8}$ 7-1/2% or more ownership interest in the firm. In the event the firm is owned by another corporation, partnership, trust or business association, any individual within that organization who holds a $\frac{5}{8}$ 7-1/2% or more ownership interest is considered a "key person". Regardless of ownership interest, any officer, partner, managing agent or director is considered a "key person". This definition also includes any individual who assumes the responsibility of an officer, owner, partner, director, etc., regardless of ownership interest.

"Performance Record" consists of, but is not limited to, the following:

Evidence of material compliance with all CDB contract requirements.

Data indicating the A/E has met all contract requirements on previous contracts, private and public.

"Prequalification" is the status granted by CDB to responsible A/E's that permits them to make submittals on CDB projects or be awarded a CDB contract.

"Responsibility" is a determination made by CDB that the A/E is a responsible A/E. The determination may be made at any time. Because responsibility is affected by such things as financial resources, performance records, and organizational and operational factors, all of which are subject to change, the initial determination of responsibility, made through evaluation of an application to CDB, may be changed upon receipt of additional or different information. The A/E is required to inform CDB of any significant change to the information submitted in its application. Each A/E must provide CDB with adequate documentation of responsibility. CDB will ordinarily provide forms for this information. CDB may supplement this information from other sources and may require additional documentation at any time. A responsibility determination may also be verified on an ongoing basis through other information, including performance evaluations and reference contacts.

"Responsible A/E" is a firm that:

Has adequate financial resources to perform the contract, or the ability to obtain them. This includes, but is not limited to, the ability to obtain required insurance from insurance companies acceptable to CDB.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENT(S)

980.510 Notice of CDB Action
980.520 Executive Director
980.530 Hearings
980.540 Burden of Proof

AUTHORITY: Implementing the Capital Development Board Act [20 ILCS 3105] and authorized by Section 1A-11 of that Act.

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1890, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20317, effective October 1, 1984; amended at 9 Ill. Reg. 17329, effective October 29, 1985; amended at 12 Ill. Reg. 20446, effective November 29, 1988; Part repealed, new Part adopted at 22 Ill. Reg. 1154, effective January 1, 1998; amended at 22 Ill. Reg. _____, effective _____.

SUBPART A: RESPONSIBILITY

Section 980.120 Definitions

The following definitions shall apply to this Part:

"A/E" means an architectural or engineering firm that is in the business of offering the practice or furnishing of architectural or engineering services for building projects, which is registered with the Department of Professional Regulation and licensed to practice architecture, structural engineering or professional engineering in the State of Illinois, or which is properly authorized under the Professional Service Corporation Act and by the Department of Professional Regulation to practice architecture, structural engineering or professional engineering in the State of Illinois. For purposes of this Part, this includes licensed individuals transacting business as sole proprietorships, which are not required to be registered with the Department of Professional Regulation.

"CDB" means the Capital Development Board, the agency.

"Consultant" means a firm or individual who will perform a portion of the contract or assist the A/E in its performance of the contract under a contract with the A/E.

"Contract or Contract Requirements" consist of any and all provisions of the CDB Professional Services Agreement (PSA).

"Office Location" means all locations at which the A/E provides professional services under the license granted by the Department of Professional Regulation and that are under the responsibility of the managing agent for that license.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENT(S)

Is able to comply with the contract requirements, considering the firm's other business obligations.

Has a satisfactory performance record.

Has a satisfactory record of integrity and business ethics.

Has the necessary organization, experience, accounting and operational controls, and technical skills.

Is otherwise qualified and eligible to receive a contract award under applicable laws and regulations.

"Types of Profile Codes" means branches of knowledge or expertise of architectural or engineering practice that may be provided by firms and that are listed on CDB's A/E prequalification application.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART B: SUSPENSION, DEBARMENT, MODIFICATION OF PREQUALIFICATION, AND CONDITIONAL PREQUALIFICATION

Section 980.300 Actions Affecting Responsibility and Prequalification

At any time, CDB may consider whether an action is warranted concerning an A/E's prequalification. Actions that may be taken include one or more of the following:

- a) Interim or Emergency Suspension or Modification
CDB may summarily suspend or modify an A/E's prequalification in accordance with Section 16 of the Capital Development Board Act [20 ILCS 3105/16].
- b) Debarment
CDB may debar an A/E to exclude it from making submittals for CDB contracts as authorized by statute. The period of debarment shall be not less than five years and may be permanent when warranted or as authorized by law [20 ILCS 3105/16].
- c) Modification of Prequalification
CDB may modify or limit an A/E's prequalification as appropriate, including, but not limited to, one or more of the following:
 - 1) Limiting the size or type of contracts for which an A/E may submit proposals for a specified period of time or until a current contract is substantially complete.
 - 2) Limiting the number of CDB contracts an A/E may enter into for a specified period of time, or until a current contract is substantially complete.
 - 3) Limiting the aggregate dollar amount of contracts the A/E may enter into with CDB.

CAPITAL DEVELOPMENT BOARD

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- 4) Imposing limits as set forth above pending performance on the A/E's next CDB contract(s) in instances where the A/E has no current CDB contracts.

d) Conditional Prequalification
CDB may condition prequalification (which may be otherwise limited) on the A/E's successful utilization of a management plan, evaluations, conferences, or other methods designed to achieve satisfactory performance or compliance with contract requirements.

e) Suspension
CDB may suspend an A/E firm or disqualify an A/E firm temporarily from submitting contracting with CDB, for a period of time up to five years one-year. The A/E's failure to timely pursue administrative action as provided by Subpart D of this Part shall constitute consent of the A/E to CDB's action.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 980.310 Causes for Suspension, Debarment, Modification of Prequalification, and Conditional Prequalification

CDB may determine an A/E is not responsible and suspend, debar or otherwise modify a prequalification or issue a conditional prequalification based upon one or more of the following:

- a) Failure to satisfactorily perform work on CDB contract(s), private contract(s), or other governmental contract(s).
- b) Breach of the terms of a CDB contract(s), private contract(s), or other governmental contract(s). Breach of a CDB contract includes but is not limited to:
 - 1) Failure to submit required documents and drawings, including record drawings, according to the project schedule, causing a delay in the commencement, completion or close out of a project.
 - 2) Failure to adhere to quality standards of the applicable profession or required codes and standards for a particular type of construction so that the public health and safety are jeopardized by unsafe buildings.
 - 3) Failure to perform supervisory and observer functions as specified in the contract.
 - 4) Failure to notify CDB of problems with any projects, which failure results in time delays or an increase in cost of the project.
- c) Making false or misleading statements or failing to disclose or update significant information in connection with CDB procedures or documents, including but not limited to the prequalification application.
- d) Violation of civil or criminal Federal or State statutes or administrative rules and regulations. In the case of criminal violations, indictment shall constitute adequate evidence for a

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENT(S)

- determination of non-responsibility.
- e) Financial instability which may be evidenced by bankruptcy, failure to timely pay consultants, difficulty in obtaining acceptable insurance, attempts to assign contract proceeds, or other indications of serious business management deficiencies.
 - f) Failure to understand, accept or utilize CDB procedures and standards, which results in the extraordinary expenditure of CDB resources.
 - g) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, or conduct indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of an A/E.
 - h) Suspension, debarment, or limits on contracts by any other governmental body.
 - i) Failure to be properly licensed or registered with the Department of Professional Regulation (DPR), being the subject of disciplinary sanctions by DPR, or the subject of initiation of proceedings by DPR to refuse to renew, suspend or revoke the registration or license of the A/E, or to impose any other disciplinary sanction.
 - j) Any other cause of so serious or compelling a nature that it affects the present responsibility of an A/E.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART C: APPLICATION OF CDB ACTION

Section 980.430 Debarment

CDB may debar an A/E to exclude it from submitting on CDB projects. CDB will consider debarment in cases so serious and egregious in nature that a permanent loss of submittal privileges may be warranted. In addition to the causes listed in Section 980.310, causes for debarment may include but not be limited to multiple or repetitive criminal convictions or multiple non-responsibility determinations. Following a period of debarment, when an A/E submits a prequalification application to CDB, the application shall be deemed to be a first-time application rather than one for renewal.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART D: PROCEDURES

Section 980.540 Burden of Proof

- a) Any determination pursuant to this Part may be made when CDB possesses documentation of one or more of the factors described in Section Sections 980.310, 980.320, or 980.410.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENT(S)

- b) Such documentation constitutes a presumptive determination of non-responsibility. The A/E is entitled to rebut the presumption, through procedures described in this Subpart, but the presumption will not be overturned unless the A/E shows, by a preponderance of evidence, that each factor cited by CDB in support of its determination of non-responsibility is not present. CDB's determinations are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Procurement Practices
- 2) Code Citation: 44 Ill. Adm. Code 910
- 3) Section Numbers
910.110 Proposed Action:
910.120 Repealed
910.150 Repealed
- 4) Statutory Authority: Implementing and authorized by Sections 9.06 and 16 of the Capital Development Board Act [20 ILCS 3105/9.06 and 3105/16] and the Illinois Procurement Code [30 ILCS 500].
- 5) A Complete Description of the Subjects and Issues Involved: This proposed repealer will be replaced by new proposed rules published in this issue of the *Illinois Register*.
- 6) Will this proposed repealer replace an emergency rule current in effect?
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed repealer contain incorporation by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: From the date that this notice first appears in the *Illinois Register*, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Fredrick W. Hahn, Chief Counsel
Capital Development Board
3rd Floor, Wm. G. Stratton Bldg.
Springfield, Illinois 62706
217/782-0700

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporation affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None.

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED REPEALER

- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1998
- The full text of the Proposed Repealer is identical to the text of the Emergency Repealer appearing in this issue of the Register on Page 14129.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

1) Heading of the Part: Procurement Practices2) Code Citation: 44 Ill. Adm. Code 9103) Section Numbers:

910.090	New Section	<u>Proposed Action:</u>
910.100	New Section	
910.110	New Section	
910.120	New Section	
910.130	New Section	
910.140	New Section	
910.150	New Section	
910.160	New Section	
910.170	New Section	
910.180	New Section	
910.190	New Section	
910.200	New Section	
910.210	New Section	

4) Statutory Authority: Implementing and authorized by Sections 9.06 and 16 of the Capital Development Board Act [20 ILCS 3105/9.06 and 3105/16] and the Illinois Procurement Code [30 ILCS 500].5) A Complete Description of the Subjects and Issues Involved: Replaces procurement practices rules being repealed. This rulemaking implements and applies the requirements contained in the Illinois Procurement Code [30 ILCS 500].6) Will this proposed rule replace an emergency rule current in effect? Yes7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed rule contain incorporation by reference? No9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: This proposed rule does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Fredrick W. Hahn, Chief Counsel
Capital Development Board
3rd Floor Wm. G. Stratton Bldg.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

Springfield, Illinois 62706
217/782-0700

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporation affected: Small businesses will be affected by this Part the same as any business that bids on a contract let by the Board.

B) Reporting, bookkeeping or other procedures required for compliance: May require the completion of application forms and correspondence.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Rules is identical to the text of the Emergency Rules appearing in this issue of the Illinois Register on Page 14033.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Application
- 2) Code Citation: 89 Ill. Adm. Code 557
- 3) Section Numbers: Proposed Action:
557.40 Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].
- 5) A Complete Description of the Subjects and Issues involved: The current rule does not require that a parent sign an application when the customer is under age 18. An application must be signed by the parent when the customer is under that age and cannot sign a legally binding contract. The amendment to this Section adds two new paragraphs that bring the Section in line with the age of majority law.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary form compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The rulemaking was not anticipated at that time.

The full text of the Proposed Rule(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 557
APPLICATION

Section

- 557.10 General Applicability
557.20 Geographical Customer Assignment
557.30 Application Required
557.40 Who May Sign
557.50 Assistance in Attaining Necessary Financial Support
557.60 Application for Services by DHS-ORS Employees, Individuals Holding Contracts with DHS-ORS, DHS-ORS Advisory Council Members, Family Members of DHS-ORS Employees or Close Friends of DHS-ORS Employees

AUTHORITY: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].

SOURCE: Adopted at 9 Ill. Reg. 8755, effective June 10, 1985; amended at 11 Ill. Reg. 820, effective December 23, 1986; amended at 11 Ill. Reg. 15220, effective August 31, 1987; amended at 12 Ill. Reg. 12099, effective July 7, 1988; amended at 13 Ill. Reg. 16552, effective October 10, 1989; emergency amendment at 17 Ill. Reg. 11654, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20341, effective November 15, 1993; amended at 19 Ill. Reg. 1135, effective January 23, 1995; amended at 19 Ill. Reg. 2473, effective February 21, 1995; amended at 19 Ill. Reg. 10706, effective July 11, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

Section 557.40 Who May Sign

- a) The Application must be signed by the customer client. The only exception to this is when the customer client is competent and at least 18 eighteen years of age, but documentation in the case file indicates that the customer client is physically unable to sign his/her signature, in which case the counselor will write a statement indicating the reason the customer client is unable to sign the Application. This statement must be signed by a witness to attest to its validity.
- b) If the customer is under 18 years of age, unless emancipated in accordance with the Emancipation of Mature Minor Act [750 ILCS 30], the application must also be signed by the parent or legal guardian.
- c) If the customer is a person for whom a legal guardian of the person has been appointed, the legal guardian must also sign the application.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Developmental Disabilities Services
- 2) Code Citation: 89 Ill. Adm. Code 144
- 3) Section Numbers: Proposed Action:
144.100 Amended
- 4) Statutory Authority: Implementing Section 18.3 of the Mental Health and Developmental Disabilities Act [20 ILCS 1705/18.3] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].
- 5) A Complete Description of the Subjects and Issues Involved: This amendment clarifies what conditions a participating facility must meet in order to remain in the program. Violation of certain Department of Public Health Standards (77 Ill. Adm. Code 390) will cause a facility to lose its payments for exceptional care. Language to clarify what documented training is required for exceptional care was added. Language to clarify what documented training is required for personnel working with ventilator dependent residents and residents with tracheotomies was added. The remainder of the changes are technical, i.e., replacing the Department of Mental Health and Developmental Disabilities (DMHDD) with the Department of Human Services (DHS). The exceptional care program has only been in place since August 1996. The changes being made are based on comments and the experiences of participating facilities and administrative personnel to clarify a few simple issues.

6) Will this proposed amendment replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? This amendment crossreferences and incorporates, by reference, rules of the Illinois Department of Public Health and the Code of Federal Regulations, respectively.

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments, data, views or argument regarding this proposed rulemaking before the expiration of the first 45-day notice period. Submission must be in writing and directed to:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
3rd Floor, Harris Building
Springfield, Illinois 62762
(217) 785-9772
TTY: (217) 557-1547

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: Long-term care facilities (ICF/MR) for persons with developmental disabilities.
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: At least one professional nursing staff trained in the care of ventilator-dependent individuals. This requirement may be satisfied if the facility employs on staff a certified respiratory therapy technician or registered respiratory therapist (see Section 144.100(d)(1)). Other staff caring for ventilator-dependent individuals must receive documented in-service training (see Section 144.100(d)(2)). Staff caring for persons with tracheotomies must have documented in-service training in tracheotomy care (see Section 144.100(d)(3)).

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 144

DEVELOPMENTAL DISABILITIES SERVICES

Section	
144.1	Incorporation By Reference
144.5	Determination of Program (Active Treatment) Costs
144.25	ICF/MR Service Criteria
144.50	Inspection of Care and Rate Setting Appeal Process
144.75	Comprehensive Functional Assessments and Reassessments (Repealed)
144.100	Exceptional Care Needs of Clients with Developmental Disabilities
144.105	Individual Program Plan (IPP) (Repealed)
144.125	Specialized Care - Behavior Development Programs
144.150	Specialized Care - Health and Sensory Disabilities
144.175	Functional Needs
144.200	Service Needs - Medical Care (Repealed)
144.205	Service Needs - Medical and Therapy Services (Repealed)
144.225	Individual Rights (Repealed)
144.230	Reconciliation of Resident Funds
144.250	Discharge Planning/Maximum Growth Potential Plan (Repealed)
144.275	Reimbursement for Program (Active Treatment) Costs in Residential Facilities for Clients with Developmental Disabilities
144.300	Reimbursement for Program (Active Treatment) Costs in Small Scale Residential Facilities
144.325	Capital Rate Calculation
TABLE A	Overview of Staff Intensity Scale of Maladaptive Behaviors
TABLE B	Staff Intensity Scale
TABLE C	IPP Outcomes (Repealed)
TABLE D	Guidelines for Determining Levels of Functioning
TABLE E	Standardized Adaptive Functional Assessment

AUTHORITY: Implementing Section 18.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/18.3] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

SOURCE: Adopted at 14 Ill. Reg. 4166, effective March 9, 1990; Section 144.275 recodified from 89 Ill. Adm. Code 146.225 at 14 Ill. Reg. 7651; amended at 14 Ill. Reg. 17988, effective October 29, 1990; amended at 15 Ill. Reg. 14084, effective September 24, 1991; emergency amendment at 15 Ill. Reg. 16148, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3497, effective February 28, 1992; amended at 16 Ill. Reg. 5898, effective March 20, 1992; amended at 17 Ill. Reg. 8478, effective June 1, 1993; amended at 17 Ill. Reg. 11480, effective July 16, 1993; emergency amendment at 17 Ill.

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Reg. 15126, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; emergency amendment repealed at 17 Ill. Reg. 22582, effective December 20, 1993; emergency amendment at 18 Ill. Reg. 11314, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16619, effective October 27, 1994; amended at 19 Ill. Reg. 2890, effective February 22, 1995; amended at 19 Ill. Reg. 7906, effective June 5, 1995; amended at 20 Ill. Reg. 6916, effective May 6, 1996; emergency amendment at 20 Ill. Reg. 7426, effective May 24, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9072, effective June 28, 1996; amended at 20 Ill. Reg. 11326, effective August 1, 1996; amended at 20 Ill. Reg. 12465, effective August 30, 1996; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 9287, effective May 15, 1998; amended at 22 Ill. Reg. _____, effective _____.

Section 144.100 Exceptional Care Needs of Clients with Developmental Disabilities**a) Exceptional Care Program**

- 1) The Department of Human Services (Department) ~~Mental--Health--and Developmental--Disabilities--(BMHDB)~~ may make payments to ~~ICF/MR (SNF/Ped--license)~~ facilities, that ~~which~~ meet licensure and certification requirements for skilled nursing facilities under age 22 (SNF/Ped as may be prescribed by the Department of Public Health (DPH) (see the Department of Public Health's rules at 77 Ill. Adm. Code 390). A participating facility must maintain its licensure and certification and be in compliance with the applicable conditions of participation and licensing and certification standards to be eligible for exceptional care. If DPH notifies the facility, in writing, of a need for a plan of correction for noncompliance with one or more conditions of participation, or that an imposed plan of correction for an A or B licensure finding is required, or if DPH notifies the facility because it has been declared an "immediate and serious threat" to the welfare of any resident(s), that facility will not be allowed to receive exceptional care reimbursement for any additional individuals from the date of DPH's written notification until the date DPH officially determines any and all of the conditions leading to the notification have been satisfactorily resolved. No payment for exceptional care shall be made retroactively for any residents admitted to the facility while the facility was in violation of DPH's rules at 77 Ill. Adm. Code 390. Exceptional care payment for such individuals shall commence when all such violations have been corrected, if such individuals are approved for exceptional care.
- 2) Exceptional medical care is defined as the level of care with extraordinary costs related to services which may include nurse, ancillary specialist services, and medical equipment and/or

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supplies that have been determined to be a medical necessity. This may apply to Medicaid clients who currently are residing in SNF/Ped facilities, Medicaid patients who are being discharged from the hospital or other setting where Medicaid reimbursement is at a rate higher than the exceptional care rate for related services, or persons who are in need of exceptional care services and who would otherwise be in an alternative setting at a higher cost to the Department or the Department of Public Aid. This includes but is not limited to persons with complex respiratory illness, ventilator-dependent persons or persons with high medical needs for whom the SNF/Ped provides a cost-effective living arrangement. High medical needs is defined as licensed staffing costs 50 percent above the level III medical add-on licensed staffing reimbursement rate.

- 3) The Department BMHBB shall recommend rates to the Department of Public Aid (DPA) for DPA approval in accordance with the provisions of Section 18.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/18.2] and Section 5-11 of the Illinois Public Aid Code [305 ILCS 5/5-11]. The Department BMHBB will calculate the rates for exceptional care service categories by using data collected from SNF/Ped exceptional care providers.

b) Exceptional Care Requirements

The Department BMHBB may reimburse for exceptional care services only if the SNF/Ped provider agrees to the following conditions:

- 1) The provider will maintain separate records regarding costs related to the care of the exceptional care residents.
- 2) The provider must meet all conditions of participation in accordance with 42 CFR 483, Subpart I, Conditions of Participation for Intermediate Care Facilities for the Mentally Retarded [1996]. If the provider is not in compliance with a condition of participation and such noncompliance is under appeal, the Department BMHBB will delay action on the provider's application to participate in the exceptional care program pending the official determination by DPH that any and all of the conditions leading to the notification have been satisfactorily resolved outcome-of-the-hearing.

- 3) The provider must demonstrate the capacity and capability to provide exceptional care as documented by DPH and Department BMHBB records, including, but not limited to, being free of Type A violations and/or conditional license brought upon by violations relating to health care services. If the Type A violation and/or conditional license is under appeal, the Department BMHBB will delay action on the provider's application to participate in the exceptional care program pending the satisfactory outcome of the action of DPH taken in regard to the facility's noncompliance with conditions or participation or the proper implementation of a plan of correction for an A or B

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licensee finding hearing. Newly licensed facilities are not immediately eligible to participate in the exceptional care program. An assessment may be made jointly by DPH and the Department to determine if the facility demonstrates the capacity and capability to provide exceptional care prior to the facility being open for 12 months. This assessment may be done prior to a facility having been open for 12 months when there are a sufficient number of residents to present an accurate representation of the facility's ability to care for more medically involved individuals as determined by DPH.

- 4) For the purposes of this Section, a newly licensed facility is one that has never been licensed before, that has reopened after having discharged all residents or that has changed the focus of its operations (e.g., from ICF/SNF to ICF/MR or SNF/Ped). Facilities that were already participating in the Exceptional Care Program and are sold to a new licensee are not considered newly licensed.

- 5) The provider must maintain and provide documentation demonstrating:
 - A) Adherence to staffing requirements as described in subsection (c) of this Section;
 - B) Adherence to staff training requirements as described in subsection (d) of this Section;
 - C) Written agreements as required in subsection (e) of this Section;
 - D) Presence of emergency policy and procedures as described in subsection (f) of this Section;
 - E) Medical condition of the resident; and
 - F) Care, treatments and services provided to the resident.

- 6) When residents are mechanically supported, the provider must have and maintain physical plant adaptations to accommodate the necessary equipment, e.g., emergency electrical backup system. The provider shall maintain records demonstrating the facility's maintenance of emergency equipment. Staff must be familiar with the location and operation of the emergency equipment and related procedures. To assure that staff are familiar with operating the emergency equipment, facilities must provide quarterly in-service training for all staff caring for residents.

- c) Exceptional Care Staffing Requirements
Staffing---requirements---for---facilities---providing---exceptional---care include:
 - 1) There shall be at least one registered nurse 24 hours a day seven days per week in the facility. Based on the Department's review of the exceptional care services needs, additional registered nurse staff may be determined necessary by the Department BMHBB to implement the medical care plan and meet the needs of the individual.

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- 2) There shall be at least one registered nurse or licensed practical nurse on duty at all times and on each floor housing residents (as required by DPH in 77 Ill. Adm. Code 390.1040(b)).
- 3) For those facilities providing complex respiratory or ventilator services under exceptional care, there shall be a certified respiratory therapist on staff or on contract with the facility.
- d) Training Requirements for Facilities Providing Exceptional Care for Persons with Tracheostomies and Ventilator-Dependent Residents
 - 1) At least one of the full-time professional nursing staff members must have successfully completed a course in the care of ventilator-dependent individuals and the use of ventilators, conducted and documented by a certified respiratory therapist or registered nurse who has at least one year's documented experience in the care of ventilator-dependent persons within the last three years. This nursing staff member must receive annual continuing education/in-service training on the care of ventilator-dependent individuals. This requirement may be alternatively satisfied if the facility employs on staff a certified respiratory therapist or registered nurse or registered respiratory therapist.
 - 2) All staff caring for ventilator-dependent residents must have documented in-service training in ventilator care prior to providing such care. In-service training must be conducted at least annually by a certified respiratory therapist or a qualified registered respiratory therapist or a qualified registered nurse who has at least one year's experience in the care of ventilator-dependent persons. In-service training documentation shall include name and qualifications of the in-service director, duration of presentation, content of presentation and signature and position description of all participants.
 - 3) All staff caring for persons with tracheostomies must have documented in-service training in tracheostomy care, other related medically complex procedures and infection control/universal precautions, prior to providing such care. In-service training documentation shall include the name and qualifications of the in-service director, duration of presentation, content of presentation and signature and position description of all participants. The in-services should address all extraordinary situations and/or aspects of care.
- e) Exceptional Care Agreement Requirements

The provider must have a valid written agreement with:

 - 1) A medical equipment and supply provider which must include a service contract for ventilator equipment when accepting ventilator-dependent residents. Supplies include oxygen, oxygen concentrator, tracheostomy supplies and any other items needed for the services to be delivered;

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- 2) A local emergency transportation provider;
- 3) A hospital capable of providing the necessary care for equipment-dependent residents, when appropriate; and
- 4) A certified respiratory therapist or registered respiratory therapist (unless a respiratory therapist is on staff within the facility) when accepting ventilator-dependent residents or residents requiring respiratory services.
- f) Exceptional Care Emergency Policy and Procedures Requirements

The provider must have specific written policies and procedures addressing emergency care for residents requiring exceptional care.
- g) Accessibility to Records

The provider must make accessible to the Department BMHBB, DPA and/or DPH all facility, resident and other records necessary to determine the appropriateness of exceptional care services.
- h) Provider Approval and Voluntary Termination Process
 - 1) A provider should notify the Department BMHBB, in writing, of its interest in participating in the Exceptional Care Program.
 - 2) The Department BMHBB shall conduct a review of the facility to assure that the facility meets all the exceptional care requirements contained in this Section.
 - 3) The Department BMHBB shall notify the provider in writing of its approval for exceptional care services.
 - 4) Providers desiring to discontinue provision of exceptional care shall notify the Department BMHBB, in writing, at least 60 days prior to the date of termination. Payment for exceptional care residents already residing in facilities which notify the Department BMHBB that they wish to discontinue providing exceptional care services will be reduced to the facility's standard Medicaid per diem rate at the time exceptional care services are discontinued. The Department BMHBB will review each approved exceptional care client to determine whether he or she may remain in the facility. For the duration of the time that exceptional care clients remain in the facility, the provider must continue to meet the needs of the individual. Should a transfer to another facility be necessary, the provider must contact the responsible case coordinating agency which will assist in locating another provider.
 - 5) It is the responsibility of a SNF/Ped provider to effect appropriate discharge planning for exceptional care residents when terminating services for exceptional care. The Department BMHBB will assist providers with any information available regarding appropriate placement settings.
- i) Determining Eligibility for Exceptional Care Payment
 - 1) A person currently residing in a SNF/Ped, or a person being discharged from a hospital or a person who is ~~those--who--are~~ in another setting must be approved by an authorized Department BMHBB representative to be eligible for exceptional care payment.
 - 2) Eligible items which may be used in computing the cost of the

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person's care include nursing services costs, therapy services costs, and medical equipment and supply costs. Computations for determining cost of care shall be based upon reasonable costs for services, medical equipment and supplies for the facility as determined by the Department BMHBB.

- 3) The provider must submit a request for exceptional care to the Department BMHBB. An authorized Department BMHBB representative will conduct a medical review of the required care and related costs of equipment and supplies. The Department BMHBB will compute the exceptional care rate as the licensed staff cost in excess of the licensed staff cost of the standard rate methodology of the medical level III add-on plus a related cost factor of 15 percent for equipment and supplies. The Department BMHBB will notify the provider of the rate to be paid for the exceptional care services provided.

j) Monitoring

- 1) The Department BMHBB shall provide for a program of delegated utilization review and quality assurance.
- 2) The Department BMHBB shall review exceptional care residents' utilization of services at least once every 90 days. A review may be waived by the Department BMHBB staff if one or more previous reviews assessments show that a resident's condition has stabilized. However, two consecutive reviews shall not be waived. The Department BMHBB exceptional care staff will maintain contact with the SNF/Ped regarding the resident's condition during the time period any review assessment is waived. In the event that it is determined that the resident is no longer in need of or is no longer receiving exceptional care services, the Department BMHBB shall discontinue the exceptional care payment rate for the resident and reduce the rate of payment to the provider to the facility's standard Medicaid per diem rate, effective the later of either the date of the review or the determination by the Department BMHBB. Notice of this action shall be sent to the provider within 30 days.
- 4) Providers shall be reviewed annually to determine whether they continue to meet all the criteria to participate in the exceptional care program. If the annual review indicates the facility does not meet the exceptional care criteria or the resident is no longer in need of or is no longer receiving exceptional care services, the Department BMHBB shall terminate the agreement. If the Department terminates Should--BMHBB terminate the agreement, the exceptional care rate will be reduced to the facility's standard Medicaid per diem rate. Termination of the agreement shall be effective 30 days after the date of the notice. The Department BMHBB will review each formerly approved exceptional care client to determine whether he or she may remain in the facility. For the duration of the time that formerly approved exceptional care clients remain in the

facility, the provider must meet the needs of the individual. If Should a transfer to another facility is be necessary, the provider must contact the responsible case coordinating agency which will assist in locating another provider.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Minimum Standards for Certification of Developmental Training Programs

2) Code Citation: 59 Ill. Adm. Code 119

3) Section Number: 119.261
Proposed Action:
Amended

4) Statutory Authority: Implementing Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.2] and the Health Care Worker Background Check Act [225 ILCS 46] and authorized by Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.2].

5) A. Complete Description of the Subjects and Issues Involved: Part 119 is being amended to incorporate references to offenses added to the Health Care Worker Background Check Act by P.A. 90-414, approved August 1997 and effective January 1, 1998. In addition, certain technical changes have been made to reflect preferred terminology and the Department's organization and to correct addresses.

Note: This rulemaking was recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321, effective July 1, 1997.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporation by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments, data, views or argument regarding this proposed rulemaking before the expiration of the first 45-day notice period. Submissions must be in writing and directed to:

Susan Warner Weir, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Building

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Springfield IL 62762
(217) 785-9772 TTY: (217) 557-1547

12) Initial Regulatory Flexibility Analysis:

A) Types of small business affected: Private agencies that operate developmental training programs certified by the Department.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: No special skills needed

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendment begins on the next page.

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TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF HUMAN SERVICES

PART 119

MINIMUM STANDARDS FOR CERTIFICATION OF DEVELOPMENTAL TRAINING PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

119.100 Applicability

119.110 Incorporation by reference

119.120 Definitions

SUBPART B: PROGRAM REQUIREMENTS

Section

119.200 General requirements

119.205 Criteria for participation of individuals

119.210 Exclusion, suspension or discharge of an individual

119.215 Program staff

119.220 Interdisciplinary team (team)

119.225 Assessment of individuals

119.230 Individual services plan (plan)

119.235 Individual rights and confidentiality

119.240 Special training procedures

119.245 Committees

119.250 Medications and medical care

119.255 Environmental management

119.260 Administrative requirements

119.261 Application for waiver of the prohibition against employment

SUBPART C: CERTIFICATION REQUIREMENTS

Section

119.300 Issuing a certificate and period of certification

119.305 Application for certification

119.310 Application acceptance and verification

119.315 Non-transferability of a certificate

119.320 Cessation of operations

119.325 Certificate denial

119.330 Hearings

AUTHORITY: Implementing Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.2] and the Health Care Worker Background Check Act [225 ILCS 46] and authorized by Section 15.2 of the Mental Health and Disabilities Administrative Act.

SOURCE: Adopted at 14 Ill. Reg. 17227, effective October 9, 1990; emergency

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amendment at 16 Ill. Reg. 2662, effective February 1, 1992, for a maximum of 150 days; emergency expired June 30, 1992; amended at 21 Ill. Reg. 2195, effective February 1, 1997; amended at 21 Ill. Reg. 6067, effective May 5, 1997; amended at 21 Ill. Reg. 8297, effective June 25, 1997; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; amended at 22 Ill. Reg. 7978, effective April 27, 1998; amended at 22 Ill. Reg. _____, effective _____.

SUBPART B: PROGRAM REQUIREMENTS

Section 119.261 Application for waiver of the prohibition against employment

a) Hiring of direct care employees **personnel**

A provider shall not knowingly hire or retain any person after January 1, 1998 1997 in a full-time, part-time or contractual direct care position if that person has been convicted of committing or attempting to commit one or more of the following offenses unless the applicant or employee obtains a waiver pursuant to subsections (1) through (1) of this Section (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1 through 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1 through 9-3.3]);

2) Solicitation of murder and solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);

3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5 and 10-7]);

4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1 and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1 and 10-4]);

5) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-6 and 12-7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-6 and 12-7]);

6) Sexual assault or abuse (Sections 12-13, 12-14, 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-15 and 12-16]);

7) Indecent solicitation of a child (Section 11-6 of the Criminal Code of 1961 [720 ILCS 5/11-6]);

8) Predatory criminal sexual assault of a child (Section 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-14.1]);

9) Sexual exploitation of a child (Section 11-9.1 of the Criminal Code of 1961 [720 ILCS 5/11-9.1]);

10) Exploitation of a child (Section 11-19.2 of the Criminal Code of

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- 11) 1961 [720 ILCS 5/11-19.2.1];
11) Child pornography (Section 11-20.1 of the Criminal Code of 1961
[720 ILCS 5/11-20.1.1]);
- 12) Endangering the life or health of a child (Section 12-21.6 of the
Criminal Code of 1961 [720 ILCS 5/12-21.6.1];
- 13) Cruelty to children (Section 53 of the Criminal Jurisprudence Act
[720 ILCS 115/53], repealed by P.A. 89-234, effective January 1,
1996);
- 14) Abuse or gross neglect of a long-term care facility resident
(Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
- 15) Criminal neglect of an elderly or disabled person (Section
12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21.1]);
- 16) Theft, financial exploitation of an elderly or disabled person,
robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2,
19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/16-1,
16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3]);
- 17) Aggravated robbery (Section 18-5 of the Criminal Code of 1961
[720 ILCS 5/18-5.1]);
- 18) Criminal trespass (Section 19-4 of the Criminal Code of 1961
[720 ILCS 5/19-4.1]);
- 19) Home invasion (Section 12-11 of Criminal Code of 1961 [720 ILCS
5/12-11.1]);
- 20) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961
[720 ILCS 5/20-1 and 20-1.1]);
- 21) Unlawful use of weapons or aggravated discharge of a firearm
(Sections 24-1 and 24-1.2 of the Criminal Code of 1961 [720 ILCS
5/24-1 and 24-1.2]);
- 22) Armed violence (Article 33A of the Criminal Code of 1961 [720
ILCS 5/Art. 33A]);
- 23) Heinous battery (Section 12-4.1 of the Criminal Code of 1961 [720
ILCS 5/12-4.1.1]);
- 24) Tampering with food, drugs or cosmetics (Section 12-4.5 of the
Criminal Code of 1961 [720 ILCS 5/12-4.5.1]);
- 25) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961
[720 ILCS 5/12-7.4.1]);
- 26) Ritual mutilation and ritualized abuse of a child (Sections 12-32
and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and
12-33]);
- 27) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS
5/17-3.1]);
- 28) Vehicle hijacking and aggravated vehicular hijacking (Sections
18-3 and 18-4 of the Criminal Code of 1961 [720 ILCS 5/18-3 and
18-4]);
- 29) Manufacture, delivery or trafficking of cannabis (Sections 5,
5.1 and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and
9]); and
- 30) Delivery of cannabis on school grounds (Section 5.2 of the
Cannabis Control Act [720 ILCS 550/5.2]);

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- 31) Delivery of cannabis by a person at least 18 years of age to a
person under 18 who is at least three years his or her junior
(Section 7 of the Cannabis Control Act [720 ILCS 550/7]); and
32) Manufacture, delivery or trafficking of controlled substances
(Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the
Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404,
405, 405.1, 407 and 407.1]).
- b) Definitions
 For the purposes of this Section, the following terms are defined:
- "Applicant." A person seeking employment with a provider who has
received a bona fide conditional offer of employment. (Section
15 of the Health Care Worker Background Check Act [225 ILCS
46/15])
- "Conditional offer of employment." A bona fide offer of
employment by a provider to an applicant, which is contingent on
the receipt of a report from the Department of State Police
indicating that the applicant does not have a record of
conviction of any of the criminal offenses enumerated in
subsections (a)(1) through (32.14) of this Section. (Section 15
of the Health Care Worker Background Check Act [225 ILCS 46/15])
- "Direct care." The provision of nursing assistance with meals,
dressing, movement, bathing, or other personal needs of
maintenance, or general supervision and oversight of the physical
and mental well-being of an individual who is incapable of
maintaining a private, independent residence or who is incapable
of managing his or her person whether or not a guardian has been
appointed for that individual. (Section 15 of the Health Care
Worker Background Check Act [225 ILCS 46/15])
- "Initiate." The obtaining of the authorization for a record
check from a student, applicant, or employee. The provider shall
transmit all necessary information and fees to the Illinois State
Police within 10 working days after receipt of the authorization.
(Section 15 of the Health Care Worker Background Check Act [225
ILCS 46/15])
- "Nurse Aide Registry." The registry of nurse aides kept by the
Department of Public Health pursuant to Section 3-206.01 of the
Nursing Home Care Act [210 ILCS 45/3-206.01]).
- "UCIA" The Uniform Conviction Information Act [20 ILCS 2635].
- c) Nurse Aide Registry
 For all applicants for nurse aide positions, the provider shall check
 the Nurse Aide Registry to determine the date of the applicant's last
 UCIA criminal history record check. *If it has been more than one year*

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since the records check, the provider must initiate or have initiated on its behalf a UCIA criminal history record check for the nurse aide. (Section 30(b) of the Health Care Worker Background Check Act [225 ILCS 46/30(b)])

d) Conditional offers

Effective January 1, 1996, if the provider makes a conditional offer of employment to an applicant other than a nurse aide who is not exempt under subsection (m) of this Section for a direct care position, the provider shall initiate or have initiated on its behalf a UCIA criminal history record check except as provided for in subsection (e)(2) of this Section. (Section 30(c) of the Health Care Worker Background Check Act [225 ILCS 46/30(c)])

e) Initiation of UCIA criminal history record check

1) By January 1, 1997 the provider must initiate a UCIA criminal history record check for all direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt in accordance with subsection (m) of this Section. (Section 30 of the Health Care Worker Background Check Act [225 ILCS 46/30])

2) If the agency initiated a criminal background check on an employee hired after January 1, 1996 and before January 1, 1998, the agency does not need to initiate an additional criminal history record check to determine if the employee has a record of conviction of any of the offenses enumerated in subsections (a)(2), (7), (9) through (13), (17), (22) through (28), (30) and (31) of this Section. (Section 25.1 of the Health Care Worker Background Check Act [225 ILCS 46/25.1])

f) Request for UCIA criminal history record check

The provider shall request the UCIA criminal history record check in accordance with the requirements of the Department of State Police. (See Ill. Adm. Code 1265.) The provider shall notify the applicant or employee of the following whenever a non-fingerprint UCIA Criminal History Record search is made. (Section 30 of the Health Care Worker Background Check Act [225 ILCS 46/30]):

- 1) That the provider shall request or have requested on its behalf a UCIA criminal history record check pursuant to the Health Care Worker Background Check Act;
- 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report and request a waiver in accordance with subsection (j)(1) of this Section;
- 3) That the applicant, if hired conditionally, may be terminated if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (32 i4) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check

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pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section;

4) That the applicant or employee cannot work in a direct care position while a waiver request is pending;

5) That the applicant, if not hired conditionally, shall not be hired if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (32 i4) of this Section unless the applicant's record is cleared based on a fingerprint-based record check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section;

6) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (32 i4) of this Section unless the record is cleared based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section.

g) Conditional employment

The provider may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act [225 ILCS 46/30(g)])

h) Request for fingerprint-based UCIA criminal records check

An applicant, employee, or nurse aide whose UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses enumerated in subsections (a)(1) through (32 i4) of this Section may request that the provider commence a fingerprint-based UCIA criminal records check by submitting information in a form and manner prescribed by the Department of State Police (see 20 Ill. Adm. Code 1265) within 30 days after receipt of the criminal records report to validate identity and clear one's record. (Section 35 of the Health Care Worker Background Check Act [225 ILCS 46/35])

i) Eligibility for waiver

- 1) An applicant, employee, or nurse aide may request a waiver of the prohibition against employment. (Section 40 of the Health Care Worker Background Check Act [225 ILCS 46/40])
- 2) The Department may grant a waiver based on any mitigating circumstances, which may include but not be limited to:
 - A) The applicant's, employee's or nurse aide's age at the time that the crime was committed;
 - B) The circumstances surrounding the crime;
 - C) The length of time since the conviction;
 - D) The applicant or employee's criminal history since the conviction;
 - E) The applicant or employee's work history;

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- F) *The applicant or employee's current employment references;*
 G) *The applicant or employee's character references;*
 H) *Nurse Aide Registry records; and*
 I) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, recipients or clients. (Section 40(b) of the Health Care Worker Background Check Act [225 ILCS 46/40(b)])*
- J) Application for waiver
 1) If the applicant, employee or nurse aide wishes to request a waiver, the request shall be submitted within 5 calendar days after receipt of the criminal records report. A complete waiver request shall include the following:

A) A statement specifying any mitigating circumstances (see subsection (i)(2) of this Section) the person believes are relevant to the employment in question; and

B) Either:

- i) Information necessary for the Department to obtain a fingerprint-based UCIA criminal records check, including a suitable set of fingerprints, in a form and manner prescribed by the Department of State Police (see 20 Ill. Adm. Code 1265), the fee for such a check (which shall not exceed the actual cost of the check) and the findings of the required non fingerprint-based UCIA criminal records check conducted by the Department of State Police; or
- ii) The report of the results of the fingerprint-based UCIA criminal records check done pursuant to subsection (h) of this Section.

- 2) Provider staff may assist the applicant, employee or nurse aide in completing the application.
- 3) The waiver request shall be submitted to:

Accreditation, Licensure and Certification

Office-of-Accreditation-and-Licensure

Department of Human Services

405 Stratton Building

Springfield IL 62765

k) Waiver decision

- 1) The waiver request shall be reviewed by a panel of Department staff. The Department shall return a decision to the applicant, employee, or nurse aide and the provider within 30 calendar days after receipt of the completed waiver request including receipt of a report from the State Police based on the fingerprint-based record check.

- 2) The provider is not obligated to hire or offer permanent

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employment to an applicant or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act [225 ILCS 46/40(f)])

- 3) The Department shall be immune from liability for any waivers granted. (Section 40(e) of the Health Care Worker Background Check Act [225 ILCS 46/40(e)])

- 1) Appeal of the decision

- 1) The applicant, employee, or nurse aide may request further review of his or her request for a waiver within 30 calendar days after the receipt of the Department's denial of the waiver.
- 2) The applicant, employee, or nurse aide may submit additional documentation of the mitigating circumstances.
- 3) The appeal shall be submitted to:

Director

Division of Disability and Behavioral Health Services

Office-of-the-Secretary

Department of Human Services

100 South Grand Avenue East 401-Stratton-Building

Springfield IL 62762 62765

- 4) The Secretary shall act on the appeal within 30 calendar days after receipt of the appeal and shall issue a final decision granting or denying the waiver request.

m) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or

- 2) An individual employed or retained by the provider as defined by Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15] for whom a criminal background check is required by another law of this State. (Section 20 of the Health Care Worker Background Check Act [225 ILCS 46/20])

- n) The provider shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for an individual employed as a nurse aide within 10 working days after receipt of the results. (Section 30(b) of the Health Care Worker Background Check Act [225 ILCS 46/30(b)])

- o) The provider shall retain on file for a period of five years records of criminal records requests for all employees. The files shall be subject to inspection by the Department's Office of Accreditation and Licensure. The provider shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. A fine of \$500 may be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act [225 ILCS 46/50])

(Source: Amended at 22 Ill. Reg. _____, effective

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Related Program Provisions

2) Code Citation: 89 Ill. Adm. Code 117

3) Section Numbers: Proposed Action:
117.53 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

5) A Complete Description of the Subjects and Issues involved: These proposed amendments add provisions for the payment of funeral and burial expenses from a non-responsible person or organization. The purpose of this rulemaking is to allow a funeral home or a cemetery to accept a payment in an amount not to exceed \$2,000, from a person or organization not legally responsible for a deceased client, to cover expenses of services or merchandise that are not required to be provided for the Department's payment. A non-responsible person can currently be reimbursed when they provide proof of payment of funeral and burial expenses. With this proposed change, a funeral home or cemetery could accept payment from the non-responsible person or organization without it affecting the amount of the Department's payment to them.

These proposed amendments will allow the client's family to upgrade the funeral or burial services by paying the funeral home or cemetery for services or merchandise not covered by the Department's payment. This rulemaking will ease the manner of billing and collecting payment for funeral and burial expenses of a client when there are resources available that will not affect the Department's payment. As a result of this rulemaking, payment up to \$2,000 by a non-responsible person or organization for services or merchandise that are not required to be provided for the Department's payment will not affect the amount of the vendor payment.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
117.15	Amendment	22 Ill. Reg. 8278
117.91	New Section	22 Ill. Reg. 10983

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking

DEPARTMENT OF HUMAN SERVICES

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does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Mrs. Susan Warner Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: It was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

SUBCHAPTER vv: DISTRICT, COUNTY, TOWNSHIP AND SPECIAL ACT

MUTUAL COMPANIES

SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 117

RELATED PROGRAM PROVISIONS

Section

- 117.1 Incorporation By Reference
117.10 Payee for Financial Assistance
117.11 Issuance of Cash Assistance Benefits
117.12 Client Training for the Electronic Benefits Transfer (EBT) System
117.13 Replacement of the EBT Card
117.15 Reinstatement Upon Agreement to Cooperate
117.20 Replacement of Missing Warrants
117.30 Withholding of Rent (Repealed)
117.40 Recovery of Interim Assistance - Aid to the Aged, Blind or Disabled and General Assistance
117.50 Funerals and Burials
117.51 Funeral Home Services
117.52 Burial Expenses
117.53 Payment to Vendor(s)
117.54 Claims for Reimbursement
117.55 Submittal of Claims
117.60 Substitute Parental Care/Supplemental Child Care - AFDC, AABD and GA Family Cases
117.70 Charge for Replacement of Photo ID Cards (Repealed)
117.80 Direct Deposit of Recipients' Warrants
117.90 State Income Tax Match

AUTHORITY: Implementing Articles III, IV and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV and VI, and 12-13].

SOURCE: Filed and effective December 30, 1977; amended at 2 Ill. Reg. 31, p. 68, effective August 3, 1978; amended at 3 Ill. Reg. 38, p. 258, effective September 20, 1979; amended at 3 Ill. Reg. 41, p. 167, effective October 1, 1979; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 16111, effective November 22, 1983; amended at 9 Ill. Reg. 3726, effective March 13, 1985; amended at 9 Ill. Reg. 4526, effective March 20, 1985; amended at 9 Ill. Reg. 8733, effective May 29, 1985; amended at 9 Ill. Reg. 10779, effective July 5, 1985; amended at 9 Ill. Reg. 16914, effective October 16, 1985; amended at 11 Ill. Reg. 4759, effective March 13, 1987; amended at 12 Ill. Reg. 2985, effective January 13, 1988; amended at 12 Ill. Reg. 13608, effective August 15, 1988; amended at 12 Ill. Reg. 14296, effective August 30, 1988; amended at 13 Ill. Reg. 3936, effective March 10, 1989; amended at 14 Ill. Reg. 780,

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effective January 1, 1990; amended at 14 Ill. Reg. 9488, effective June 1, 1990; amended at 15 Ill. Reg. 13533, effective August 1, 1991; amended at 16 Ill. Reg. 16644, effective October 23, 1992; emergency amendment at 17 Ill. Reg. 2368, effective February 8, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 8191, effective May 24, 1993; amended at 18 Ill. Reg. 3746, effective February 28, 1994; amended at 18 Ill. Reg. 7403, effective April 29, 1994; amended at 19 Ill. Reg. 1103, effective January 26, 1995; amended at 19 Ill. Reg. 10702, effective July 7, 1995; emergency amendment at 19 Ill. Reg. 15267, effective November 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 877, effective January 1, 1996; amended at 20 Ill. Reg. 5706, effective March 30, 1996; emergency amendment at 20 Ill. Reg. 10381, effective July 23, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 395, effective December 20, 1996; amended at 21 Ill. Reg. 7759, effective June 4, 1997; emergency amendment at 21 Ill. Reg. 8677, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15591, effective November 26, 1997; amended at 22 Ill. Reg. _____, effective _____.

Section 117.53 Payment to Vendor(s)

- a) If no person has agreed to pay the total cost of funeral and burial charges, the Department will pay the vendor the actual costs of the funeral or burial, or the maximum allowable amount for each service, whichever is less, provided the amounts available from the below identified sources are deducted from the Department's standard:
- 1) The decedent's assets and available resources and the anticipated amounts of any death benefits available to the decedent's estate.
 - 2) Amounts paid and/or arranged to be paid by a decedent's legally responsible relative(s). A legally responsible relative is expected to pay funeral and burial expenses unless financial unable to do so. ~~required--to--apply--any--insurance--or--other available--death--benefit--received--as--a--beneficiary.~~
 - b) Amounts available from the above sources are to be applied first to the cemetery charges, and then to funeral charges.
 - c) The value of a casket and/or vault purchased after the person's death by a non-responsible person or organization shall not affect the amount of the vendor payment.
 - d) Payment up to \$2000 by a non-responsible person or organization for services or merchandise that is not required to be covered by the Department's payment shall not affect the amount of the vendor payment.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

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NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Support Responsibility of Relatives
- 2) Code Citation: 89 Ill. Adm. Code 20
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
20.1	New Section
20.10	New Section
20.20	New Section
20.25	New Section
20.30	New Section
20.35	New Section
20.40	New Section
20.50	New Section
Table A	
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

5) A Complete Description of the Subjects and Issues involved: These proposed amendments add provisions for the support responsibility of relatives. In conjunction with the formation of the Department of Human Services (DHS), this rulemaking adds provisions from the current rules of the Department of Public Aid (DPA) that need to be utilized by both agencies. This rulemaking is required by an Illinois Supreme Court decision in *Jacobsen V. IDPA* which held that parents are not responsible for a child once the child reaches 18.

Source in DPA Rules		New DHS Rules		Section Title
103.1		20.1		Incorporation by Reference
103.10		20.10		Support from Responsible Relatives
103.20		20.20		Determination of Ability to Support
103.25		20.25		Establishment of Support Obligations
103.30		20.30		Redetermination of Ability to Support
103.35		20.35		Enforcement of Administrative Support Orders
103.40		20.40		Failure or Refusal to Provide Information Regarding Ability to Support
103.50		20.50		Modification or Release from Support Order

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NOTICE OF PROPOSED RULES

Table A

Table A Standard for Determining
Responsible Relative
Liability

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Mrs. Susan Warner Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: It was not anticipated by the Department when the two most recent regulatory Agendas were published.

The full text of Proposed Rules begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICE
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 20
SUPPORT RESPONSIBILITY OF RELATIVES

Section

- 20.1 Incorporation by Reference
- 20.10 Support from Responsible Relatives
- 20.20 Determination of Ability to Support
- 20.25 Establishment of Support Obligations
- 20.30 Redetermination of Ability to Support
- 20.35 Enforcement of Administrative Support Orders
- 20.40 Failure or Refusal to Provide Information Regarding Ability to Support
- 20.50 Modification or Release from Support Order

TABLE A Standard for Determining Responsible Relative Liability

AUTHORITY: Implementing and authorized by Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

Section 20.1 Incorporation by Reference

Any rules or regulations of an agency of the United States or of a nationally recognized organization or association that are incorporated by reference in this Part are incorporated as of the date specified, and do not include any later amendments or editions.

Section 20.10 Support from Responsible Relatives

- a) The Department shall seek to obtain support for recipients from legally responsible individuals and shall seek the enforcement of support obligations with the following exception: the Department shall not seek to obtain support for residents of long term care facilities if income of the spouse in the community is less than or equal to the Community Spouse Maintenance Needs Standard (as described at 89 Ill. Adm. Code 120.61).
- b) The following persons are "responsible relatives" who are legally responsible for the financial support and maintenance of recipients:
- 1) spouse for spouse; and
 - 2) parents for children under 18 years of age.
- c) Responsible relatives who are receiving public assistance and/or Supplemental Security Income (SSI) benefits shall be considered unable

DEPARTMENT OF HUMAN SERVICES
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to support.

- d) A parent is not legally responsible for the financial support and maintenance of a child of any age who has married (regardless of current marital status) and is not living with the parent or parents.

Section 20.20 Determination of Ability to Support

- a) Responsible relatives living apart from the recipient/assistance unit.
- 1) For responsible relatives living apart from the recipient/assistance unit, a responsible relative is liable for all assistance provided to or in behalf of the recipient, unless the relative establishes a lesser ability to support by providing the Department with income and asset information from which it can determine the relative's ability to support. However, the monthly support obligation assessed a responsible relative determined able to pay shall not exceed the average monthly amount of assistance provided by the Department to or in behalf of the recipient.
 - 2) Except in Title IV-D cases where the guidelines set out in 89 Ill. Adm. Code 160.60(c) shall apply, the Department shall apply Table A of this Part to the gross income figure contained on the relative's most recent Federal Income Tax return to determine the relative's ability to support. The relative must submit a copy of his or her most recent Federal Income Tax return for the determination or remain liable for all assistance provided to or in behalf of the recipient. If the responsible relative has filed a joint tax return with a non-responsible relative, only such income that is attributable to the responsible relative will be considered.
- b) Responsible relatives living apart or with the recipient/assistance unit.
- 1) For responsible relatives living with the recipient/assistance unit, the Department shall determine a responsible relative's ability to support dependents according to the standards and asset limitation indicated below:
 - A) Aid to the Aged, Blind or Disabled (AABD)

The Department shall use the AABD financial assistance standard and the appropriate asset limitations, as set out in 89 Ill. Adm. Code 113.245 through 113.262 and 113.140, to determine the relative's ability to support.
 - B) General Assistance (GA) (City of Chicago Only)

The Department shall use the family or adult payment level, as set out in 89 Ill. Adm. Code 114.250, to determine the relative's ability to support.
 - 2) For responsible relatives living apart from the recipient/assistance unit, the Department shall apply Table A of this Part to the gross income figure contained on the relative's most recent Federal Income Tax return to determine the relative's

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ability to support. The relative must submit a copy of his or her most recent Federal Income Tax return for this determination or remain liable for all assistance provided to or in behalf of the recipient. If the responsible relative has filed a joint return with a non-responsible relative, only such income that is attributable to the responsible relative will be considered.

- c) Hospitalized or institutionalized individual "living with" a responsible relative.
- 1) Aid to the Aged, Blind or Disabled (AABD)

The client is considered as living apart from a responsible relative for any month the client is hospitalized or institutionalized the first day of the calendar month through the last day of the calendar month. If an infant is hospitalized from birth through the end of the calendar month, the client is considered hospitalized for the entire month. If a client is in a hospital or institution on the first day of the calendar month but dies prior to the end of the calendar month, the individual is considered living apart from the responsible relative(s).
 - 2) Temporary Assistance for Needy Families (TANF)

A hospitalized individual is considered as living with the responsible relative if the individual is under the relative's control and supervision regardless of the length of hospitalization.

Section 20.25 Establishment of Support Obligations

Except in Title IV-D cases where support obligations shall be established in accordance with 89 Ill. Adm. Code 160.60, the Department shall establish a responsible relative's obligation to support in the following manner:

- a) A notice of obligation to support, a return envelope, and a statement of the responsible relative's rights and responsibilities are sent to the responsible relative via certified mail, return receipt requested.
 - 1) If the responsible relative does not respond to the notice within 30 days, the Department will issue a subpoena for records.
 - 2) If the responsible relative submits the necessary income records within 30 days, the Department will determine the responsible relative's ability to support in accordance with Section 20.20.
- b) If the determination indicates there is no obligation, the case is closed.
- c) If the determination indicates there is an obligation to support, a determination will be made as to the amount of the obligation.
- d) If a support obligation exists, the Department will send a notice of support due to the responsible relative via registered or certified mail directing payment of the obligation.
- e) If the responsible relative fails to pay within 30 days after issuance of the notice of support due, the Department will send an Administrative Support Order via registered or certified mail. The responsible relative will be notified of his or her right to petition

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for release from or modification of the Administrative Support Order within 30 days after the date of its mailing.

Section 20.30 Redetermination of Ability to Support

The Department will redetermine and, when indicated, adjust the amount of a support obligation on the basis of Table A of this Part if:

- a) the relative has sustained a significant reduction in income since the support obligation was determined; or
- b) there has been an increase in the number of the relative's dependents.

Section 20.35 Enforcement of Administrative Support Orders

If the legally responsible relative has failed for 90 days after the effective date of the support order to make regular support payments according to the support order and a balance due is outstanding, the Department may take any or all of the following actions to collect the past due support:

- a) referral to the Department's legal representative for judicial enforcement of the Administrative Support Order;
- b) referral to the Comptroller of the State of Illinois for collection under Section 10.05 of the State Comptroller Act [15 ILCS 405/10.05]; and
- c) referral to a private collection agency for collection.

Section 20.40 Failure or Refusal to Provide Information Regarding Ability to Support

A responsible relative who refuses or fails, upon request, to provide the Department with income or asset information necessary to make a determination of ability to support shall remain liable for all assistance provided to or in behalf of the recipient.

Section 20.50 Modification or Release from Support Order

The responsible relative has the right to petition for modification of or release from the Department's order requiring the relative to provide support. The petition must be filed, in writing, with the Department no later than 30 days from the date of mailing of the support order.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

Section 20. TABLE A Standard for Determining Responsible Relative Liability

Gross Annual Income Range*		Number in Family (including recipient)						Responsible Relative Liability	
		2	3	4	5	6			
\$ 7,000-7,500	\$ 5								
7,501-8,000	10								
8,001-8,500	15								
8,501-9,000	20						\$ 5		
9,001-9,500	25						10		
9,501-10,000	30						15		
10,001-10,500	35						20	\$ 5	
10,501-11,000	40						25	10	
11,001-11,500	45						30	15	
11,501-12,000	50						35	20	\$ 5
12,001-12,500	55						40	25	10
12,501-13,000	60						45	30	15
13,001-13,500	65						50	35	20
13,501-14,000	70						55	40	25
14,001-14,500	75						60	45	30
14,501-15,000	80						65	50	35
15,001-15,500	85						70	55	40
15,501-16,000	90						75	60	45
16,001-16,500	95						80	65	50
16,501-17,000	100						85	70	55
17,001-17,500	105						90	75	60
17,501-18,000	110						95	80	65
18,001-18,500	115						100	85	70
18,501-19,000	120						105	90	75
19,001-19,500	125						110	95	80
19,501-20,000	130						115	100	85
20,001-20,500	135						120	105	90
20,501-21,000	140						125	110	95
21,001-21,500	145						130	115	100
21,501-22,000	150						135	120	105
22,001-22,500	155						140	125	110
22,501-23,000	160						145	130	115
23,001-23,500	165						150	135	120
23,501-24,000	170						155	140	125
24,001-24,500	175						160	145	130
24,501-25,000	180						165	150	135
25,001-25,500	185						170	155	140
25,501-26,000	190						175	160	145
26,001-26,500	195						180	165	150
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DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

26,501-27,000	200	185	170	155	140	125
27,001-27,500	205	190	175	160	145	130
27,501-28,000	210	195	180	165	150	135
28,001-28,500	215	200	185	170	155	140
28,501-29,000	220	205	190	175	160	145
29,001-29,500	225	210	195	180	165	150
29,501-30,000	230	215	200	185	170	155
30,001-30,500	235	220	205	190	175	160
30,501-31,000	240	225	210	195	180	165
31,001-31,500	245	230	215	200	185	170
31,501-32,000	250	235	220	205	190	175
32,001-32,500	255	240	225	210	195	180
32,501-33,000	260	245	230	215	200	185
33,001-33,500	265	250	235	220	205	190
33,501-34,000	270	255	240	225	210	195
34,001-34,500	275	260	245	230	215	200
34,501-35,000	280	265	250	235	220	205
35,001-35,500	285	270	255	240	225	210
35,501-36,000	290	275	260	245	230	215
36,001-36,500	295	280	265	250	235	220
36,501-37,000	300	285	270	255	240	225
37,001-37,500	305	290	275	260	245	230
37,501-38,000	310	295	280	265	250	235
38,001-38,500	315	300	285	270	255	240
38,501-39,000	320	305	290	275	260	245
39,001-39,500	325	310	295	280	265	250
39,501-40,000	330	315	300	285	270	255
40,001-40,500	335	320	305	290	275	260
40,501-41,000	340	325	310	295	280	265
41,001-41,500	345	330	315	300	285	270
41,501-42,000	350	335	320	305	290	275
42,001-42,500	355	340	325	310	295	280
42,501-43,000	360	345	330	315	300	285
43,001-43,500	365	350	335	320	305	290
43,501-44,000	370	355	340	325	310	295
44,001-44,500	375	360	345	330	315	300
44,501-45,000	380	365	350	335	320	305
45,001-45,500	385	370	355	340	325	310
45,501-46,000	390	375	360	345	330	315
46,001-46,500	395	380	365	350	335	320
46,501-47,000	400	385	370	355	340	325
47,001-47,500	405	390	375	360	345	330
47,501-48,000	410	395	380	365	350	335
48,001-48,500	415	400	385	370	355	340
48,501-49,000	420	405	390	375	360	345
49,001-49,500	425	410	395	380	365	350
49,501-50,000	430	415	400	385	370	355

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

50,001 & over (continues at \$5 increments for each \$500 increase in Gross Annual Income Range)

*Based on gross annual income as reflected on the responsible relative's Federal Income Tax Return

**More than 7 in family (continues at \$5 increments)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Vending Facility Program for the Blind2) Code Citation: 89 Ill. Adm. Code 6503) Section Numbers: 650.130
Proposed Action:
Amendment4) Statutory Authority: Implementing the Randolph-Sheppard Vending Stand Act (20 USC 107) and authorized by the Blind Persons Operating Vending Facilities Act [20 ILCS 2420]5) A Complete Description of the Subjects and Issues involved: Section 650.130, Grievance Procedures for Vendors, names the Director of DHS as the office authorized to render appeal decisions. Section 650.130 is being amended to read "Associate Director of ORS" and not "Director of DHS".6) Will this proposed rule replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed amendment contain incorporations by reference? No9) Are there any other amendments pending on this Part? No10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield IL 62762
(217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:A) Types of small businesses, small municipalities and not for profit

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

corporations affected: NoneB) Reporting, bookkeeping or other procedures required for compliance:
NoneC) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: Changes to this Section were not anticipated for inclusion in the Regulatory Agenda.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
 SUBCHAPTER C: VOCATIONALLY RELATED PROGRAMS

PART 650

VENDING FACILITY PROGRAM FOR THE BLIND

Section	
650.10	Definitions
650.20	Rights and Responsibilities of DHS-ORS as State Licensing Agency
650.30	Rights and Responsibilities of Vendors in the Program
650.40	Illinois Committee of Blind Vendors
650.50	Program Eligibility Requirements
650.60	Training
650.70	Certification of Vendors
650.80	Licensing of Vendors
650.90	Awarding of Facilities
650.100	Business Practices
650.110	Disciplinary Procedures for Vendors
650.120	Disciplinary Procedures for VR Clients in Initial Training
650.130	Grievance Procedures for Vendors
650.140	Set-Aside Funds
650.150	Leaves of Absence
650.160	Vending Facilities in Rest Area

AUTHORITY: Implementing the Randolph-Sheppard Vending Stand Act (20 USC 107) and authorized by the Blind Persons Operating Vending Facilities Act [20 ILCS 2420].

SOURCE: Amended August 31, 1973; codified at 6 Ill. Reg. 13790; amended at 6 Ill. Reg. 5285, effective April 16, 1984; amended at 9 Ill. Reg. 12347, effective August 5, 1985; amended at 10 Ill. Reg. 3058, effective February 1, 1986; amended at 10 Ill. Reg. 9814, effective May 21, 1986; amended at 13 Ill. Reg. 7465, effective May 1, 1989; emergency amendment at 13 Ill. Reg. 15849, effective September 26, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 18937, effective November 16, 1989; Part repealed, new Part adopted at 15 Ill. Reg. 2740, effective February 5, 1991; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

Section 650.130 Grievance Procedures for Vendors

- a) Dissatisfaction of a vendor with any DHS action arising from the administration of the Program shall be appealed pursuant to 89 Ill. Adm. Code 510. A vendor may grieve discipline pursuant to the following procedures for Level I (Administrative Reviews) and Level II (Evidentiary Hearings). The action of grieving a suspension, not including an immediate suspension, to Level I or Level II shall stay

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

the imposition of the discipline until the administrative remedies within DHS have been exhausted. A Level I Hearing is optional; a vendor may choose to go directly to a Level II Hearing and follow the procedures in subsection (c)(2) of this Section. A suspension shall be grieved by appealing directly to Level II.

b) Level I (Administrative Review)

In order to grieve an oral or written reprimand imposed per Section 650.110, DHS must receive a request for a Level I Hearing within 15 days of the date of receipt of notification that discipline is to be imposed. The vendor shall give notice in writing by certified mail to the Administrator, which notice shall state the reason for the grievance and the remedy being sought.

- 1) If the grievance is timely, the Administrator or designee shall, within five days, notify the vendor by certified mail of the time and place of the Level I Hearing, to be held between 10 and 15 days after receipt of the vendor's notice at the Springfield Administrative office of DHS. The Administrator, or designee, and vendor shall meet and attempt to resolve the grievance to their mutual satisfaction.

- 2) Within 10 days after the adjournment of the meeting the Administrator shall send the vendor a letter by certified mail stating DHS' position and summarizing the results of the hearing. The letter must cite:

- A) a statement of the basis upon which the decision was made;
 B) the applicable laws, rules, regulations and policies used;
 C) the name and address of the DHS Hearings Coordinator; and
 D) a statement that if the vendor is dissatisfied with the decision, a request for a Level II hearing must be received by the Hearings Coordinator within 15 days from the date of receipt of the Level I hearing decision notice. The request shall be in writing, addressed to the DHS Hearings Coordinator at P.O. Box 19429, Springfield, Illinois 62794-9429, and shall contain the reason for the Level II Hearing and propose four acceptable dates for the hearing, which dates shall be within 20 days after of the request.

c) Level II (Evidentiary Hearing)

- 1) If the vendor requests a review of an action where there has been no Level I Hearing, the request for a Level II Hearing must be received by the DHS Hearings Coordinator within 15 days after of the date of notification that discipline is to be imposed. The request shall also propose four acceptable dates for the hearing, which dates shall be within 20 days after of the request.

- 2) If the vendor has chosen to have a Level I Hearing and then requests a Level II Hearing, the Hearing Officer at the Level II Hearing shall review only those issues presented by the vendor or which are material and related to those presented in the Level I Hearing.

- 3) Within 5 days after of receipt of the request, the DHS Hearings

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Coordinator shall select one of the offered dates and notify the vendor by certified mail of the date and place for the Level II Hearing stating the Hearing Officer's name and address, and informing the grievant of all rights accorded pursuant to this Part.

- 4) DHS shall be represented by the Administrator or designee, who may be assisted by other staff including the DHS legal counsel.
- 5) At least three days prior to the hearing, the vendor and the Administrator must provide each other and the Hearing Officer with a list of witnesses and copies of documents not in the possession of the other party.

6) The following is the order of proceedings:

- A) presentation, argument and disposition of all preliminary motions and matters;
- B) opening statements;
- C) evidence presented by the vendor;
- D) evidence presented by DHS;
- E) rebuttal by either or both sides; and
- F) closing statements.

7) The vendor and DHS are entitled to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such examination and cross examination of witnesses as may be required for a disclosure of all facts bearing on the issues.

8) The Hearing Officer

- A) The Level II Hearing shall be heard by an Impartial Hearing Officer appointed by the Hearing Coordinator from a list maintained by him/her.

B) The qualifications for a hearing officer are:

- i) impartiality;
- ii) an understanding of the applicable rules (89 Ill. Adm. Code 650),
- iii) the ability to preside over the evidentiary hearing, and
- iv) the ability to reach a recommendation based upon the facts presented at the evidentiary hearing and the applicable rules.

9) The Hearing Officer has the power to:

- A) control the conduct of the hearing to prevent irrelevant or immaterial discussion;
- B) rule upon all motions and other matters arising in the course of the hearing, including, but not limited to, admissibility of evidence; and
- C) require the parties, in an agreed upon time frame, at any stage of any hearing or after all parties have completed the presentation of their evidence, to present further evidence including, but not limited to, the production of any and all documents, books, papers and accounts the Hearing Officer deems pertinent or relevant to any issue.

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10) Any relevant evidence presented which is of a type commonly relied upon by reasonably prudent individuals may be admissible, i.e., any information not presented in the hearings previously which pertains to the issues raised in the grievance and has been made available to both parties within the agreed upon time.

11) DHS will make an audio tape recording of the proceedings and will provide the vendor with one copy upon request, at no cost. Upon request by a vendor, a braille or large print transcript will be provided at no cost.

12) The record of testimony, exhibits, and all papers and documents filed in the hearing shall constitute the exclusive record for decision.

13) The decision

- A) Within 15 days after the hearing is adjourned, the Hearing Officer shall provide a recommendation to the Associate Director of QRS BHS. The recommendation of the Hearing Officer shall be based upon the record of the hearing and shall set forth the principal issues and relevant facts adduced at the hearing; the applicable provisions in law and regulation; and a recommended action. It shall also contain findings of fact and conclusions with respect to each of the issues and basis therefore.

B) The recommendation may also set forth any remedial action necessary to resolve operational problems of the Program.

- C) The Associate Director of QRS BHS shall make a decision as to the disciplinary action to be taken within 15 fifteen ~~15~~ days after receipt of the recommendations. The Associate Director's decision shall state the principal issues and relevant fact brought out at the hearing, pertinent provisions in law, regulation and Program procedures, the reasoning that led to the decision, and the vendor's right to appeal to the U.S. Department of Education per 34 CFR 395.13. A copy of the Hearing Officer's recommendations shall be attached to the Associate Director's letter. The Associate Director shall send copies of the decision by certified mail to the Hearing Officer, the vendor and his/her personal representative, and to the Administrator.

D) If the vendor is dissatisfied with the decision rendered after a Level II Hearing, the vendor may request, within 15 fifteen ~~15~~ days after of the receipt of such decision, that an arbitration panel be convened by filing a complaint with the Secretary of the United States Department of Education, as authorized by Section 5(a) of the Randolph-Sheppard Vending Stand Act (20 USC 855e- 107 et seq.) and 34 CFR 395.13 (1988).

d) General Provisions for Level I and II Hearings

- 1) A vendor may only designate one personal representative at any

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

one time. DHS and the Hearing Officer must be notified by the vendor of the appointment of a representative by filing, no later than three days in advance of a hearing, a notice of appearance stating the representative's name, address and telephone number, identifying the vendor represented, and signed by the vendor.

2) Grievances by any party not directly aggrieved by the discipline cannot be heard by DHS pursuant to this Part.

3) The vendor may request a reader, which DHS shall provide at its expense if it is necessary. Either brailled, large print or audio material, at the vendor's request, will be used as required.

4) All meetings with the vendor pursuant to this Section must occur at a time and location convenient to both parties.

5) All proceedings pursuant to this Section are to be confidential and not open to the general public unless requested to be so by the vendor.

6) DHS will assume the administrative costs of the appeals, e.g., reader, and court reporter/transcription, but not costs personally incurred by the vendor because of the proceedings, e.g., legal fees, travel, witness costs, and room and board.

e) Vendor's Rights Regarding a Grievance

After a request for a hearing is received by DHS, the vendor must be informed of the right to:

- 1) review his/her file and other related documents, with the exception of information per Section 650.90 and confidential information;
- 2) be represented by a personal representative who has filed a notice of appearance with DHS;
- 3) an explanation of the grievance process as set forth in this Section;

4) request a reader;

5) withdraw the grievance at any time during the process, in which case the vendor cannot request a reopening of the grievance;

6) a timely and impartial hearing;

7) decline to appear for Level I or II Hearing, in which case a review of the case file and any new written information or evidence submitted by the grievant shall be examined and a decision made based on that review by the Hearing Officer;

8) confidentiality of the proceedings as set forth in 89 Ill. Adm. Code 505.10; and

9) have DHS employees directly involved in the appealed action present at the hearings, and to question them. However, if such employee(s) is no longer employed by DHS and declines to attend the hearing after DHS has made reasonable attempt to secure his/her attendance, the person most knowledgeable about the case shall attend.

f) DHS Rights Regarding a Grievance
DHS has the right to:

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1) refuse to hear grievances if not timely filed;

2) have a DHS attorney present;

3) cooperation by the vendor (e.g., responding to hearing officer questions, adhering to time frames provided in this Section);

4) publish hearing summaries, with deletions as necessary to ensure a vendor's confidentiality; and

5) consolidate for hearing all issues related to a vendor or to several vendors out of the same set of facts and circumstances.

g) Conduct of the Hearings

1) A hearing shall not be adjourned until the Administrator or Hearing Officer is satisfied that all facts needed for a decision have been presented.

2) Only evidence bearing directly on the issue under review may be introduced; only evidence which has been made available to the other party may be considered by the Administrator or Hearing Officer.

3) It is DHS' responsibility to prove that a violation occurred. If the Hearing Officer determines that DHS failed to prove that a violation occurred, based on evidence and a review of applicable law and regulations, he/she may direct that the disciplinary action being grieved be removed from the vendor's file.

4) All parties involved in the hearing must avoid undue delay caused by repetitive continuances so that the subject matter of the hearing may be resolved expeditiously. A hearing may for good cause shown (e.g., illness of a vendor or witness, crisis at a facility, severe weather), be continued by the Administrator or Hearing Officer. Notice of the request must be given in writing to the other party and to the Hearing Officer no less than 5 days prior to the scheduled hearing date (in the absence of an emergency).

h) Use of the Record

1) Upon completion of the hearing, all records, recommendations, orders, and attached materials shall be placed in a permanent file. This file shall be confidential and only those DHS officials involved in the disciplinary process shall have access to them. In future cases, the legal representative of a vendor may examine such files, but only after the names, addresses, and identifying characteristics of any vendors involved have been removed.

2) The Associate Director of ORS DHS reserves the right to submit the record of the Level II Hearing to the appropriate state or federal officials, together with a request that action be taken, if the record discloses that illegal conduct relating to the operation of the facility may have occurred.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Multifamily Rental Housing Mortgage Loan Program

2) Code Citation: 47 Ill. Adm. Code 310

3) Section Numbers: Proposed Action:

310.103 Amendment

310.403 Amendment

310.802 Amendment

310.803 Amendment

4) Statutory Authority: Implemented and authorized by the Illinois Housing Development Act [20 ILCS 3805].

5) A Complete Description of the Subjects and Issues Involved: Changes in the definitions of the titles of two officers of the Authority. Reduces the amount of time that occupancy restrictions on certain developments must remain in place, if an owner of such a development is granted an increase in its equity in the development and/or an increased rate of return on its equity.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This proposed rulemaking does not create a State mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments, data, views or arguments concerning this rulemaking in writing to:

Richard B. Muller, Esq.
401 N. Michigan Ave., Suite 900
Chicago, Illinois 60611
312/836-5327

The Authority will consider all written comments received at the above address within 45 days after the date of publication of this *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit

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corporations affected: The proposed amendment will have a favorable impact on owners of developments on which the Illinois Housing Development Authority holds a mortgage. It will have no impact on any other small business.

B) Reporting, bookkeeping or other procedures required for compliance:
No new requirements.

C) Types of professional skills necessary for compliance: No new professional skills needed.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: It was anticipated by the Authority when the regulatory agenda was published.

The full text of the Proposed Amendment begins on the next page:

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 310

MULTIFAMILY RENTAL HOUSING MORTGAGE LOAN PROGRAM

SUBPART A: GENERAL RULES

Section
310.101
310.102
310.103
310.104
310.105
310.106
310.107
310.108
310.109
310.110
310.111
310.112
310.113
310.114

Authority
Purpose and Objectives
Definitions
Borrowing by the Authority
Compliance with Federal Law
Standards
Forms and Procedures for the Program
Fees and Charges of the Authority
Waiver (Repealed)
Amendment
Severability
Gender and Number
Titles and Captions
Calendar Days

SUBPART B: NOTICE OF PROPOSED DEVELOPMENTS

Section
310.201
310.202
310.203
310.204
310.205
310.206

Applicability and Purpose of Notification
Notification by Authority
Comments and Responses
Conditional Commitment Application
Hearings
Notice of Issuance of Conditional Commitment Letter

SUBPART C: OWNER

Section
310.301
310.302
310.303
310.304
310.305
310.306
310.307
310.308
310.309

Eligible Mortgagors
Land Trusts
Organizational Documents
Books and Records
Audits
Annual Financial Report
Furnishing Information
Purchase of Authority Bonds and Notes
Standards for Approval of Conveyance and Amendment of Documents

SUBPART D: MORTGAGE LOAN

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Section
310.401
310.402
310.403
310.404
310.405

Maximum Mortgage Loan Amount
Maturity of Mortgage Loans
Equity and Distributions
Development Funds and Property
Reserve Fund for Replacements

SUBPART E: CONSTRUCTION

Section
310.501

Design and Construction Standards

SUBPART F: MARKETING AND MANAGEMENT

Section
310.601
310.602
310.603
310.604

Marketing and Management
Marketing and Management Plans
Maintenance
Cost of Services

SUBPART G: OCCUPANCY

Section
310.701
310.702
310.703

Tenant Selection Plan
Income Limits
Commercial Facilities

SUBPART H: RATE OF RETURN ON EQUITY FOR
LIMITED-PROFIT ENTITIES

Section
310.801
310.802
310.803
310.804
310.805
310.806

Statutory Authorization
Developments Eligible for Increased Rate of Return
Retroactive Adjustments
Calculation of Alternate Basic Rate of Return
Risk Premium for Special Needs
Increases in the Basic Rate of Return

SUBPART I: ENERGY EFFICIENCY STANDARDS FOR NEW AND
REHABILITATED DEVELOPMENTS

Section
310.901
310.902
310.903
310.904
310.905
310.906

Statutory Authorization
Definitions
Incorporation of National Standards
Thermal Requirements
Air Infiltration Requirements
Doors, Windows and Glass

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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310.907 Mechanical Work
 310.908 Insulation
 310.909 Mechanical Work Insulation
 310.910 Electrical Work
 310.911 Energy Audit Analysis
 310.912 Rehabilitation Guidelines
 310.913 Rehabilitation Waiver

AUTHORITY: Implementing and authorized by the Illinois Housing Development Act [20 ILCS 3805].

SOURCE: Adopted at 5 Ill. Reg. 14583, effective prior to October 24, 1980 as corrected at 6 Ill. Reg. 620; codified at 7 Ill. Reg. 2433; amended at 8 Ill. Reg. 2996, effective February 28, 1984; amended at 9 Ill. Reg. 8631, effective May 29, 1985; emergency amendment at 9 Ill. Reg. 10086, effective June 13, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11296, effective July 5, 1985; amended at 9 Ill. Reg. 14675, effective September 13, 1985; amended at 9 Ill. Reg. 16848, effective October 21, 1985; amended at 10 Ill. Reg. 13657, effective August 4, 1986; amended at 10 Ill. Reg. 13987, effective August 11, 1986; amended at 14 Ill. Reg. 683, effective December 27, 1989; amended at 16 Ill. Reg. 10248, effective June 16, 1992; emergency amendment at 17 Ill. Reg. 13805, effective August 10, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 1939, effective January 21, 1994; amended at 22 Ill. Reg. 3854, effective February 4, 1998; amended at 22 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL RULES

Section 310.103 Definitions

As used in this Part, the following words or terms mean:

"Act": The Illinois Housing Development Act [20 ILCS 2805].

"Authority": The Illinois Housing Development Authority.

"Bonds": Bonds issued by the Authority from time to time to finance the Program.

"Builders'/Sponsors' Profit and Risk Allowance" ("BSPRA"): The allowance given to an Owner against the Equity requirements for a Mortgage Loan. BSPRA shall not exceed an amount equal to ~~ten-percent-t~~ 10% of the total estimated replacement cost of a Development (see Section 310.401).

"Chairman": The Chairman of the Authority.

"Change Order": Any written order evidencing a change in construction

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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plans, specifications, or a contractor's work which is executed by an Owner and general contractor and approved by the Authority in writing.

"Clearinghouse": A State, regional, or metropolitan agency designated by the Governor or the Authority or established by State statute to provide notice to appropriate State and local agencies of proposed Developments and to review such Developments.

"Commercial Tenant": Any entity leasing commercial facilities in a Development.

"Construction Completion Date": The date that construction of a Development is substantially completed, as approved by the Authority in writing.

"Cost Certification Cutoff Date": The last day of the month in which the Construction Completion Date falls.

"Cumulation Date": The date from which an Owner's right to make Distributions shall begin cumulating, which shall be the Initial Closing Date.

"Cumulative Distribution": A Distribution of Surplus Cash and/or Residual Receipts representing all or part of a Distribution unpaid but cumulated by an Owner in a prior fiscal year.

"Current Distribution": A Distribution of Surplus Cash and/or Residual Receipts representing all or part of a Distribution earned in a current fiscal year.

"Deputy Director": The Deputy Executive Director of the Authority.

"Development": The Real Estate, together with all improvements, buildings, equipment, and personal property appurtenant thereto.

"Development Funds": All cash, rent subsidies, gross Development income, bank accounts, certificates of deposit, trust funds, reserves, escrows, accounts receivable, and other such assets of a Development.

"Director": The Executive Director of the Authority.

"Distribution": Any withdrawal or taking of cash from Surplus Cash and/or Residual Receipts, including segregation of cash for subsequent withdrawal, for payment to or on behalf of an Owner pursuant to the Authority's written authorization of such Distribution.

"Eligible Mortgage": Any Limited-Profit Entity or Nonprofit Corporation or any Illinois land trust the beneficiary of which is a

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Limited-Profit Entity or Nonprofit Corporation, but only if such Mortgageor's ownership of the Development (including any partnership interest or stock ownership interest in such Mortgageor), or such beneficiary's interest in such Illinois land trust (including the ownership of any partnership interest or stock ownership interest in such beneficiary), shall not cause any Tax-exempt Bonds used to finance the Development to become taxable for federal income tax purposes and the organizational documents of such Mortgageor or such beneficiary referred to in Section 310.303 of this Part at all times are in compliance with the requirements of Section 310.303.

"Equity": The difference between the amount of a Mortgage Loan and the total cost of a Development except as otherwise provided for in Section 310.403(f) below.

"Final Closing Date": The date on which the Authority issues its final closing memorandum.

"Initial Closing Date": The date on which the Authority issues its initial closing memorandum.

"Limited-Profit Entity": Any individual, joint venture, partnership, limited partnership, trust, or corporation organized or existing under the laws of the State of Illinois or authorized to do business in the State and having articles of incorporation or comparable documents of organization or a written agreement with the Authority which, in addition to meeting other requirements of law, meets the requirement of the Act.

"Members": The Members of the Authority.

"Mortgage": The mortgage or other instrument in the nature of a mortgage, together with any supplements thereto and amendments or modifications thereof, executed as security for a Mortgage Loan.

"Mortgage Loan": The loan from the Authority to a Mortgageor to be used for the acquisition of the Real Estate and for the planning, construction, rehabilitation, development, completion or financing of a Development.

"Mortgage Note": The document executed as evidence of a Mortgageor's indebtedness under a Mortgage Loan and any supplements thereto and modifications or amendments thereof.

"Mortgagor": The Limited-Profit Entity, Nonprofit Corporation, or Trustee holding title to a Development.

"Nonprofit Corporation": A nonprofit corporation incorporated

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pursuant to the provisions of the Illinois General Not-for-Profit Corporation Act or the State Housing Act of 1932 and having articles of incorporation which, in addition to meeting other requirements of law, meet the requirements of the Act.

"Notes": The Notes issued by the Authority from time to time to finance the Program.

"Owner": The Limited-Profit Entity or Nonprofit Corporation holding title to Real Estate or a Development or, when the Real Estate or the Development is held in an Illinois land trust, the Limited-Profit Entity or Nonprofit Corporation owning the beneficial interest in a Trust. Under no circumstances shall "Owner" mean the Authority or a Trustee.

"Program": The Authority's multifamily rental housing mortgage loan program.

"Real Estate": The real property upon which a Development is to be or has been constructed.

"Residual Receipts": Any cash remaining at the end of an annual fiscal period after the Authority, if applicable, deducts from Surplus Cash the amount of all Distributions.

"Rules": The Rules and Regulations of the Authority as supplemented and amended from time to time, including, without limitation, this Part.

"Staff": The Director and Deputy Director and the employees of the Authority.

"State": The State of Illinois.

"Surplus Cash": That part of gross Development income remaining at the end of a fiscal year after Development Funds, if applicable, have been disbursed in accordance with established priorities.

"Tenant": The person or family leasing a dwelling unit in a Development.

"Tenant Selection Plan": The tenant selection plan approved by the Authority for a Development.

"Trust": The Illinois land trust of which an Owner is the sole beneficiary and which holds legal title to a Development.

"Trustee": The Trustee of an Illinois land trust holding legal title

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to a Development.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART D: MORTGAGE LOAN

Section 310.403 Equity and Distributions

- a) Right to Distributions. As provided in the Act, an Owner shall have the right, commencing as provided in subsection (b) of this Section, to make annual Distributions in an amount not to exceed ~~six-percent~~ 6% of its Equity in a Development except as otherwise provided pursuant to Sections 310.801 through 310.805 inclusive, except that if a Distribution cannot be made as provided in subsections (c) and (d) of this Section, an Owner may cumulate the right to make a Distribution. In partial fiscal years following the Cumulation Date, the amount of a Distribution shall be cumulated pro rata.
- b) Cumulation Date. An Owner's right to a Distribution shall begin to cumulate on the Initial Closing Date, which shall also be known as the Cumulation Date.
- c) Source of Distributions. An Owner may make Current and Cumulative Distributions out of Surplus Cash and/or Residual Receipts. If Surplus Cash or Residual Receipts are unavailable in a given fiscal year, an Owner shall make no Current Distribution, but the right to make such Distribution shall cumulate. If Surplus Cash and/or Residual Receipts are insufficient in a given fiscal year to make a Distribution in an amount equal to ~~six-percent~~ 6%, or as otherwise permitted in Sections 310.801 through 310.805 inclusive, of an Owner's Equity in a Development, an Owner may distribute all available Surplus Cash and/or Residual Receipts and cumulate the right to make the rest of the Distribution in future years when and if Surplus Cash and/or Residual Receipts are available.
- d) Timing of Distributions. No Distribution shall be made until after the Final Closing Date, even if such date is later than the Cumulation Date. Even if Surplus Cash and/or Residual Receipts are available, the initial and all subsequent Distributions, including Cumulative Distributions, may be made only after the Authority has approved the Development's annual financial report (see Section 310.306); the Development has an approved Development budget for the next fiscal year; the Owner has complied with all outstanding notices of requirements for proper maintenance and operation of the Development; the Owner has cured any defaults or breaches of applicable Authority Rules, contracts and agreements; and the Authority has issued its written authorization of such Distribution.
- e) Amount of Equity. As required by the Act, the Authority shall establish an Owner's Equity in a Development at the time of making the final Mortgage Loan advance. In no event shall the amount of such

Equity be calculated to include any grants or other funds not originating with the Owner. Once established by the Authority, the amount of an Owner's Equity shall remain constant so long as the Mortgage Note and Mortgage are outstanding on the Development unless adjusted by resolution of the Members based on the criteria set forth in Subsection ~~310.403(f)~~ below.

f) Increase in Amount of Equity.

- 1) If an Owner agrees either to preserve the Development as affordable to persons and families of low and moderate income ~~for a period not less than five years to the full term of the Mortgage Loan~~ or create additional units of housing affordable to persons or families of low and moderate income, the Authority, by resolution of its Members, may increase Owner's Equity to an amount not to exceed the difference between the unpaid balance of the Mortgage Loan and the Development's appraised value at the time of the request by the Owner for an Equity increase. The appraisal shall be based on the Development's highest and best use and be conducted by an appraiser acceptable to the Authority. For purposes of the increase in Owner's Equity, the Development's appraised value may be updated by the Owner no more frequently than every five years after an increase is granted under this subsection (f) and the amount of Owner's Equity may be adjusted to reflect the updated appraisal. The cost of the appraisal shall not be a Development expense.
- 2) It shall be a condition of the Authority increasing Owner's Equity that:
 - A) the Authority give its prior written consent to any increase in the rental charges for the Development; and
 - B) the Authority determine, in its sole discretion, that:
 - i) the Reserve Fund for Replacements is sufficient to pay the costs set forth in Section 310.405 below for the subsequent five years; and
 - ii) the amount needed to complete any deferred maintenance on the Development is less than one year's funding requirement for the Reserve Fund for Replacements.
- 3) The Authority shall require the Owner to execute an agreement evidencing the increase in Equity and containing the Owner's agreement either to preserve the Development as affordable for low and moderate income ~~for a period not less than five years to the full term of the Mortgage~~ or create additional units of housing affordable to persons or families of low and moderate income.
- 4) Any increase in Owner's Equity approved pursuant to this Section shall conform with any relevant federal statutes, rules or regulations.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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SUBPART H: RATE OF RETURN ON EQUITY FOR
LIMITED-PROFIT ENTITIES

Section 310.802 Developments Eligible for Increased Rate of Return

q615C Any Development for which the Authority has issued a conditional commitment letter effective on or after August 9, 1984 is eligible for the establishment of an alternate basic rate of return in excess of 6% if, either: 7

- 1) the Director or, in his absence, the Deputy Director determines it to be necessary in order to attract private enterprise to construct, rehabilitate, operate and maintain housing for low and moderate income persons. The standard or test for determining whether a higher rate of return is necessary is but for the higher rate of return private enterprise would be unable to acquire, construct, rehabilitate, operate and maintain housing for low and moderate income persons. In making this determination, the Director or, in his absence, the Deputy Director shall consider but not be limited to the competing market interest rates, the alternative lending sources, financial projections based upon anticipated rents, debt service, utilities, taxes and other expenses and the comparative severity of the housing needs; or

- 2) the Authority determines, pursuant to resolution of its Members, that an increase in the basic rate of return is necessary to preserve the Development as affordable for persons or families of low and moderate income or that the increase provides for the creation of additional units of housing affordable to persons or families of low and moderate income in the Development or otherwise in the State. It shall be a condition to an increase in the basic rate of return pursuant to this subsection

Subsection--310-802(a)(2) that: 7

- A) the Authority give its prior written consent to any increase in the rental charges for the Development, and

- B) the Authority determine, in its sole discretion, that: 7
 - i) the Reserve Fund for Replacements is sufficient to pay the costs set forth in Section 310.405 above for the subsequent five years, and
 - ii) the amount needed to complete any deferred maintenance on the Development is less than one year's funding requirement for the Reserve Fund for Replacements.

- b) If the Authority makes a determination pursuant to subsection--310-802(a)(1) above, then, prior to the Authority increasing the basic rate of return, the Authority shall require that the Owner execute an agreement evidencing the increase in the basic rate of return and containing the Owner's agreement either to preserve the Development as affordable for persons or families of low and moderate income for a period not less than five years the full-term-of

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~~the Mortgage-bear~~ or increase the number of units affordable to persons or families of low and moderate income.

- c) Any increase in the basic rate of return approved pursuant to this Section shall conform with any relevant federal statutes, rules or regulations.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 310.803 Retroactive Adjustments

- a) Developments for which the Authority has issued a conditional commitment letter effective prior to August 9, 1984 are not eligible for an alternate basic rate of return in excess of 6%, unless: 1)

1) the Development is a troubled Development as determined by the Director or, in his absence, the Deputy Director. A "troubled Development" for purposes of this Section is one for which a delinquency of more than 60 sixty days exists for replacement reserve, tax and insurance reserve, or principal or interest payments and/or an alternate basic rate of return is necessary, as determined by the Director or, in his absence, the Deputy Director, to encourage a new Owner to acquire the Development, or to encourage an existing Owner to invest monies into the Development, or to assist an existing Owner to meet its financial obligations. In regard to the delinquencies, it shall be established to the satisfaction of the Director or, in his absence, the Deputy Director, that the increase in the rate of return is essential for the Developments to meet these delinquency obligations. The standard to be applied shall be that but for the increased rate of return the Development would not be able to make these past due payments current. In making the determination whether one or more delinquencies exist, the Director or, in his absence, the Deputy Director shall consider, but not be limited to, an examination of all books and records the Authority has in regard to the delinquencies as well as all documentation submitted by or on behalf of the Development, and anticipated rents, debt service, utilities, taxes and other expenses of the Development; or

- 2) the Authority determines, pursuant to resolution of its Members, that an increase in the basic rate of return is necessary to preserve the Development as affordable for persons or families of low and moderate income or that the increase provides for the creation of additional units of housing affordable to persons or families of low and moderate income in the Development or otherwise in the State. It shall be a condition to an increase in the basic rate of return pursuant to this subsection that: 1)

- A) the Authority give its prior written consent to any increase in the rental charges of the Development; and

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- B) the Authority determine, in its sole discretion, that:
- i) the Reserve Fund for Replacements is sufficient to pay the costs set forth in Section 310.405 above for the subsequent five years, and
 - ii) the amount needed to complete any deferred maintenance on the Development is less than one year's funding requirement for the Reserve Fund for Replacements.
- b) In regard to an alternate basic rate of return to encourage a new Owner to acquire the Development, it shall be established to the satisfaction of the Director or, in his absence, the Deputy Director that but for the increase in the rate of return, a new Owner could not be found to acquire the Development. In making this determination the Director or, in his absence, the Deputy Director shall consider but not be limited to competing market interest rates, alternative lending sources, financial projections based upon anticipated rents, debt service, utilities, taxes and other expenses and the comparative severity of the housing needs.
- c) If the Authority makes the determination pursuant to subsection ~~Subsection 310-003(a)(2)~~ above, the Authority, prior to increasing the basic rate of return pursuant to subsection ~~Subsection 310-003(a)(2)~~ above, shall require that the Owner execute an agreement evidencing the increase in the rate of return and containing the Owner's agreement either to preserve the Development as affordable for persons or families of low and moderate income for a period not less than five years ~~the full term of the Mortgage Loan~~ or to increase the number of units affordable to persons or families of low and moderate income.
- d) Any increase in the basic rate of return approved pursuant to this Section shall conform with any relevant federal statutes, rules or regulations.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Lottery (General)
- 2) Code Citation: 11 Ill. Adm. Code 1770
- 3) Section Number: Proposed Action:
 1770.10 Amendment
 1770.90 Amendment
 1770.120 Amendment
 1770.150 Amendment
 1770.190 Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 7.1 and 7.2 of the Illinois Lottery Law [20 ILCS 1605/7.1 and 7.2] and Executive Order 86-2, effective July 1, 1986.
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Sections 1770.10 and 1770.190 clarify who can claim a prize, and under what circumstances. These changes are necessary to ensure that the actual identity of the winner is known for purposes of eligibility to play the game and claim a prize, public record of the expenditure of State funds, and maintaining the integrity of, and public confidence in, the Lottery. The changes further ensure that prize claims are consistent with Section 13 of the Illinois Lottery Law prohibiting the assignment of prizes.
 The amendment to Section 1770.90 provides backup personnel for review of delinquent agent accounts to ensure that such review is not delayed by the absence of primary personnel.
 The amendment to Section 1770.120 provides a mechanism to reimburse agents when an honest mistake results in the payment of a prize of \$600 or more at an agent location.
 The amendment to Section 1770.150(g) clarifies a sales agent's responsibility for consigned lottery tickets.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This proposed amendment neither creates nor expands a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments regarding these proposed amendments may be submitted in writing for a period of 45 days following publication of this notice. Comments should be directed to:

Lisa Crites
Rules Coordinator
Illinois Lottery
201 E. Madison St.
Springfield, IL 62702
217/524-5253
Fax: 217/524-5235

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses, small municipalities and not for profit corporations holding a license to sell Illinois Lottery tickets would be positively affected by these proposed amendments in situations where agent personnel mistakenly pay a prize in excess of \$600. At present, reimbursement in such situations is limited to \$600.

B) Reporting, bookkeeping or other procedures required for compliance: No new requirements are imposed by these proposed amendments.

C) Types of professional skills necessary for compliance: No professional skills are necessary for compliance with these proposed amendments.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendments begins on the next page:

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TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE C: LOTTERY
CHAPTER II: DEPARTMENT OF THE LOTTERY

PART 1770
LOTTERY (GENERAL)

Section	
1770.10	Definitions
1770.20	Selection of Lottery Sales Agents; License Application and Fee; On-Line Status
1770.30	Special Licenses
1770.40	License Revocation Without Prior Notice
1770.50	License Revocation, Suspension, Non-Renewal or Denial With Prior Notice
1770.60	Conditions of Licensing
1770.70	License to be Displayed
1770.80	Change of Name, Ownership, or Form of Business Organization
1770.90	Delinquent Financial Obligations
1770.100	Bonding of Agents
1770.110	License Expiration and Renewal
1770.120	Agent Financial Adjustments
1770.130	Lost, Stolen, and Damaged Winning Tickets and other Discrepancies
1770.140	Sales by Department Directly
1770.150	Sales, Inspection, Compensation, and Ticket Purchases
1770.160	Lottery Tickets
1770.170	Lottery Games
1770.180	Drawings
1770.190	Prize Payment, Claiming of Prizes and Transfers to Common School Fund
1770.200	Eligibility to Buy
1770.210	Sale of Promotional Items
1770.220	Priority of Rules

AUTHORITY: Implementing and authorized by Sections 7.1 and 7.2 of the Illinois Lottery Law [20 ILCS 1605/7.1 and 7.2] and Executive Order 86-2, effective July 1, 1986.

SOURCE: Filed by the Lottery Control Board July 11, 1974; amended at 2 Ill. Reg. 17, p. 130, effective April 1, 1978; amended at 4 Ill. Reg. 15, p. 201, effective March 30, 1980; codified as 11 Ill. Adm. Code 1670 at 5 Ill. Reg. 10713; transferred from 11 Ill. Adm. Code 1670 (Lottery Control Board) to 11 Ill. Adm. Code 1770 (Department of the Lottery) pursuant to Executive Order 86-2, effective July 1, 1986, at 11 Ill. Reg. 1582; Part repealed, new Part adopted at 13 Ill. Reg. 7908, effective May 16, 1989; amended at 17 Ill. Reg. 18816, effective October 19, 1993; amended at 18 Ill. Reg. 13439, effective August 23, 1994; amended at 19 Ill. Reg. 6810, effective May 8, 1995; amended at 20 Ill. Reg. 15039, effective November 6, 1996; emergency amendment at 22

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Ill. Reg. 1964, effective January 15, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 9307, effective May 15, 1998; amended at 22 Ill. Reg. _____, effective _____.

Section 1770.10 Definitions

Terms defined in the Act have the same meanings when used in this Part. The following words and terms when used in this Part shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Illinois Lottery Law [20 ILCS 1605].

"Agent" or "Sales Agent" or "Distributor" means a person and his representative who has been licensed to distribute and/or sell lottery tickets under Sections 9.d, 10 and 10.1 of the Act.

"Applicant" means a person who has applied to the Director for a license to sell lottery tickets to the public.

"Board" means the Lottery Control Board as established by Section 6 of the Act.

"Chairman" means the Chairman of the Lottery Control Board.

"Claim" means to present a purported winning Illinois Lottery ticket to a licensed Lottery Agent or a Lottery regional or administrative office for payment. "Claim" shall additionally mean the process of completing an Illinois Lottery claim form or other documentation as required by this Part. The amount of a prize claim is determined by deducting the amount of the wager from the verified prize amount.

"Claimant" means a person, as defined in this Section, who presents a winning lottery ticket to a licensed Lottery Agent or a Lottery regional or administrative office for the purpose of receiving a prize.

"Department" means the Illinois Department of the Lottery.

"Director" means the Director of the Department of Lottery.

"Employee of the Department" means an employee of the Department of the Lottery.

"Game" means any individual or particular type of lottery authorized by the Department.

"License" means a license, issued by the Director pursuant to Section 9 of the Act, under the authority of the Act, for an agent to sell

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lottery tickets to the public. Licenses shall be effective for an initial period of two years from the date issued by the Department's Licensing Unit. Each license thereafter approved for renewal by the Department will be renewed for a two-year term dated from the date of expiration of the initial or last prior renewal term, as may be appropriate.

"Licensed Agent" or "Lottery Sales Agent" or "Licensed Sales Agent" means a person permitted by a license issued by the Director under the authority of Sections 9.d, 10 and 10.1 of the Act to sell Illinois State Lottery tickets to the public, by an across-the-counter transaction at a specified Point of Sale at a specifically licensed location.

"Lottery" or "State Lottery" means the Lottery established and operated pursuant to the Act.

"On-line status" means the ability of an agent to sell computer-generated Lottery game tickets or shares through a terminal connected to a Lottery central system.

"Person", when used in reference to a sales agent's license, shall be construed to mean and include an individual, association, partnership, corporation, limited liability company or partnership, club, trust, estate, society, company, joint stock company, receiver, trustee, referee, or any other person acting in a fiduciary or representative capacity, who is appointed by a court, or any other combination of individuals. "Person" includes any department, commission, agency or instrumentality of the State, including the Department of the Lottery, and also including any county, city, village, or township and any agency and instrumentality thereof.

"Person", when used in the context of a prize claim, shall be construed to mean and include an individual; a group of individuals; a partnership or club; a limited partnership, if registered prior to the date the prize was won; a corporation, if incorporated prior to the date the prize was won; a limited liability company, if registered prior to the date the prize was won; a revocable living trust, provided the prize winner is the initial trustee; an irrevocable trust, if the trust agreement was executed prior to the date the prize was won, and provided all beneficiaries of the trust are named therein; a charitable organization, if registered prior to the date the prize was won; an estate; or a governmental entity other than the Department of the Lottery. Prize claims by any such "persons" are subject to eligibility requirements set forth in the Act, this Part, or game rules.

"Point of Sale" means the physical location where a licensed agent is

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authorized to conduct the sale of lottery tickets to the public.

"Prize" means any award, financial or otherwise, awarded to a ticket holder pursuant to the rules of the lottery.

"Related terminal" means any player activated machine or any agent operated terminal in which an owner of an agent location has 50% or greater interest.

"Secretary" means the Secretary of the Lottery Control Board.

"Service" means the mailing of any notice required by the Act or this Part by certified mail, return receipt requested. Service shall be deemed complete if the notice is returned undelivered or unclaimed when mailed, postage prepaid, to the intended recipient's last known address as disclosed in the Department's records, or if 30 days have elapsed from the date of mailing to such address with no return of the item.

"Special License" means a license issued by the Director limited in geographic scope and/or duration of validity, pursuant to Section 1770.30 of this Part.

"State Lottery Fund" means the special fund created in the State Treasury by Section 20 of the Act, in which all revenues received by the State Lottery, as defined and limited by Section 20 of the Act, are deposited.

"Ticket" means a lottery ticket or share issued by the Department for sale to the general public.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1770.90 Delinquent Financial Obligations

- a) It is the obligation of each Lottery sales agent to remain current on his or her financial obligations to the Department. Lottery accounts are due and owing, in full, on each settlement day designated by the Department. Settlement of on-line terminal agent ticket accounts will be on a weekly basis, and settlement of instant game ticket accounts will be as scheduled by the Department. Accounts not settled on designated settlement days shall be deemed delinquent. Serious or repeated delinquencies may result in the suspension or revocation of a Lottery sales agent's license or the deactivation of the Lottery sales agent's on-line terminal. In the event the Department determines that a delinquency exists as a result of failure of an agent to segregate Lottery funds from other funds or as a result of commingling of

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Lottery funds or other assets so that the funds and assets of the Department, held in trust by an agent, cannot be identified and surrendered upon demand by the Department or its authorized collection representative, the Department shall revoke the license without notice or prior hearing, as provided in Section 1770.40(a)(4) of this Part. Lesser delinquent financial obligations will be processed pursuant to the provisions of subsections (b) and (c) of this Section.

- b) In the event an agent, authorized to sell only instant products, is delinquent with respect to settlement of his or her account, and the delinquency is the first or second such delinquency within the past twelve months, inclusive of the month of the current delinquency, the collector will establish an extended collection deadline of 4:00 p.m. on the collection day, for a morning delinquency, and 10:00 a.m. the following business day for an afternoon delinquency. A delinquent agent will be charged with each such delinquency provided, however, that an agent delinquent with respect to a settlement envelope, but timely in payment, will be charged with only one-half of a delinquency. There will be no sanctions imposed with respect to the first two such delinquencies within a twelve-month period, unless both delinquencies occur within a 30-day period. Upon the third such delinquency, or the second of two delinquencies in a 30-day period, the Department or its collection agent shall notify the licensee that it will be under review by Department management for possible license revocation. During the period of review, no new instant tickets will be delivered to the agent. If the Department determines that the delinquencies, or any of them, were reasonably justified due to circumstances beyond control of the agent, the Department will reinstate the agent. Thereafter, any subsequent delinquency which, when taken with other delinquencies within the immediate past twelve calendar month period totals three delinquencies, or two delinquencies within a 30-day period, shall require additional review by the Department. If, upon any such review, the Department determines that the delinquencies are not reasonably justified by the agent the Department may proceed with notification of termination in accordance with the procedures set forth in subsection (d) of this Section.

- c) The Department will apply sanctions with respect to delinquent on-line agent accounts according to the following schedule of sanctions:

- 1) First delinquency: In the event an agent is delinquent in settlement of his or her Lottery account, and the delinquency is the first within the past twelve months, inclusive of the month of delinquency, the agent will deliver the settlement envelope to the Department's District Office or designated courier service and/or deliver correct payment to the Department's District Office or wire transfer the funds to the Department's account by 4:00 p.m. if delinquency was before noon (12:00 p.m.); if after noon (12:00 p.m.) the deadline is 10:00 a.m. the next working day. If the current week's settlement which was due on settlement date is paid by the extended settlement deadline, the

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agent will be charged with one delinquency (one-half of a delinquency if the payment was timely but the settlement envelope was delinquent as described in subsection (b) above) but will receive no further sanction;

- 2) Second delinquency: In the event an agent is delinquent in settlement of his or her Lottery account or any extended payment deadline, and the delinquency is the second one in the past twelve months, inclusive of the month of the delinquency, the collector will promptly notify the Department of the delinquency, whereupon the delinquent agent's Lottery sales terminal and any related terminals will be immediately deactivated and the agent will be charged with a second delinquency. When settlement of the current week's account which was due on settlement date is paid to the Department's District Office or wire transferred to its account, the Lottery sales terminal and related terminals will be reactivated unless the second incident is within one month of the first. If this occurs, the sales terminal and any related terminals will be reactivated only after review and approval by the Deputy Director of Finance or Finance Division Administrative Assistant;

- 3) Subsequent delinquencies: In the event an agent is delinquent in settlement of his or her Lottery account or any extended payment deadline, and the delinquency is the third or more in the past twelve months, inclusive of the month of the delinquency, the collector will promptly notify the Department of the delinquency, whereupon the delinquent agent's Lottery sales terminal and any related terminals will be immediately deactivated and the agent will be charged with an additional delinquency. The following table sets forth the required payment and reactivation policy:

REQUIRED PAYMENT AMOUNT

THIRD:
Current week's settlement

One business day
after payment and
after review and
approval by Deputy
Director of
Finance, ~~or~~ Finance
Division Adminis-
trative Assistant,
or Chief Accountant

FOURTH:

Current week's settlement

Two business days
after payment and
after consideration
by Deputy Director

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of Finance, ~~or~~
Finance Division
Administrative
Assistant,
or Chief Accountant

FIFTH:

Current week's settlement

Three business days
after payment and
after consideration
by Deputy Director
of Finance,
~~or~~ Finance
Division Adminis-
trative Assistant,
or Chief Accountant

- d) The Lottery may, upon written notification and with opportunity for hearing, revoke an agent's license after review of a delinquency, at any stage if the Director determines that termination is in the best interest of the Lottery. Such termination may be initiated without prior notice and opportunity for hearing when the Department's funds are not segregated and available for surrender or when accounts receivable exceed allowable limits as provided in Section 1770.40 of this Part. An evaluation of the circumstances surrounding this delinquency, including a review of a delinquent agent's past delinquency record will be conducted to differentiate between incidental agent management error and lack of financial stability or responsibility.

- e) It is the responsibility of the licensed sales agent to insure that all payments due the Department are properly prepared. Failure to properly prepare and tender any payment due the Department shall not be an excuse for failure to fulfill obligations due the State Lottery.
- f) The deactivation or removal of an on-line terminal, or the suspension or revocation of the license of a Lottery sales agent shall not relieve the Lottery sales agent of liability for any obligation due the Department.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1770.120 Agent Financial Adjustments

- a) Whenever instant tickets are lost, stolen or destroyed while in the possession of a Lottery agent or distributor, or while in transit to, from or between the Department and the agent or distributor, the Department may provide for full or partial credit against the

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settlement due the Department from an agent for lost or destroyed non-winning tickets, mid-tier tickets authorized prior to the loss, and mid-tier tickets properly reported as lost or destroyed and therefore unable to be redeemed. Each such claim for credit shall be accompanied by an affidavit, an incident report and a police or fire report, as appropriate, and/or such other supplementary documentation as the Director may deem necessary to proper validation of the loss.

b) Whenever an agent pays a prize with a claimed value in excess of the amount permitted by Section 1770.190(b) of this Part and seeks reimbursement for the full amount paid, the agent must submit:

- 1) a written explanation of the circumstances surrounding the prize payment;
- 2) the winning ticket or, if the ticket has been destroyed, a written explanation of the circumstances surrounding the ticket's destruction;
- 3) a claim form completed in the agent's name and taxpayer identification number; and
- 4) such other documentation as may be requested by the Deputy Director for Finance and General Counsel.

The Deputy Director for Finance and General Counsel will review the documentation provided in conjunction with Department records and, if satisfied that an honest error occurred, such an error is not likely to occur again, and that the original holder of the winning ticket was paid the full amount due for the winning ticket, may jointly recommend that the agent be reimbursed up to the full prize amount paid. If necessary in order to ensure that no other person has legal claim to the prize, the Deputy Director for Finance and General Counsel may withhold reimbursement to the agent until the pertinent prize claim period has expired.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1770.150 Sales, Inspection, Compensation, and Ticket Purchases

- a) Except as provided in Section 1770.140 of this Part, tickets shall be sold only to purchasers physically present on the premises at the specific location named in the license.
- b) All ticket sales shall be final, and no agent is authorized to accept ticket returns except as otherwise provided in this Part or with the specific approval of the Director.
- c) Authorized inspectors of the Department may inspect the business premises of any agent at any time during normal business hours. Such inspections may be made without prior notice to the agent.
- d) An agent is entitled to a commission for tickets sold by the agent at such rate or rates as are established by the Director. Each licensed agent shall be entitled to such bonus or bonuses to be awarded with respect to a winning ticket sold by the agent as may be established by

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- e) the Director with respect to each particular lottery game. The Director may award additional cash bonuses or other incentives from time to time to sales agents. Agents shall be notified of any such bonuses or incentives by means of an agent newsletter or such other similar agent circular as may be distributed by the Department.
- f) Each agent shall deposit to a Lottery Trust Fund Account in a bank, or otherwise return to the Department in the manner prescribed by directive, all monies received by the agent from the sale of tickets less the amount of commission and such sums of money paid out by the agent to winners of prizes (lottery proceeds) which must be segregated and apart from other business or personal funds and must be segregated as a trust fund on behalf of the Lottery. The agent shall file with the Department, or its designated representatives, reports of receipts, sales, payment to winners and related transactions in such form and containing such information as the Department may require by directive. Any discrepancies in such receipts and transactions are to be resolved as provided in the reporting directives.

g) All game tickets accepted by an agent remain the property of the Lottery until the tickets are sold and the proceeds remitted to the Lottery. Any unsold tickets not returned to the Lottery upon demand shall be considered purchased by the agent and the purchase price of the tickets, less appropriate deductions, shall be immediately due and payable to the Lottery. The agent is responsible for lost, stolen or missing tickets not returned, except as provided in Section 1770.120(a) of this Part. All tickets accepted by an agent from the Department or its authorized representatives are the property of the Lottery until sold and deemed to have been purchased by the agent, unless returned to a representative of the Lottery within the time specified by the Department and the purchase price paid to the State less the appropriate deductions. The agent is responsible for lost, stolen or missing tickets not returned.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1770.190 Prize Payment, Claiming of Prizes and Transfers to Common School Fund

- a) The prize structure may vary with each game and will be established at the beginning of the game by the Director. The prize structure, odds of winning, the manner in which winners are determined, the claim period for the game and various procedural matters will be set forth in game rules and play instructions.
- b) A prize of less than \$600 may be claimed by submitting the winning Lottery ticket to a Lottery agent location which sells the type of game won, and may be paid by the Lottery agent directly from Lottery ticket sales funds on hand after the agent follows verification procedures which establish that the ticket is a winning ticket,

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examines the ticket for alteration, verifies that the prize claim period has not expired, and requests proof of age from the claimant if appropriate. However, when a winning ticket is presented for payment at an agent location after the expiration of any agent claim period established in game rules, the value of the winning ticket is \$600 or more, or the Department's verification procedures require, the agent shall follow the claim procedures set forth in subsection (c) below.

- c) Prizes of up to \$25,000, claimed by an individual or in the name and under the taxpayer identification number of a partnership or other artificial person, may be paid by Lottery regional or administrative offices, subject to established claim periods, procedures and validation tests. All claims for prizes of more than \$25,000, as well as claims for lesser prizes not paid by Lottery regional offices, administrative offices or by an agent pursuant to subsection (b) of this Section, must be paid centrally by the Department. Claimants may obtain claim forms from any lottery ticket sales agent, any departmental regional office, or the Department's administrative offices in Chicago or Springfield, Illinois. When initiating a claim at any of the aforesaid locations, a claimant shall complete the name and address area on the reverse of the ticket, and present proof of identification and the winning ticket. The agent or Department employee, as applicable, will assist the claimant in filling out the claim form which will be signed by the agent or employee and by the claimant or his or her authorized representative. The claimant or authorized representative will receive a copy of the claim form as a receipt. The winning ticket and a copy of the claim form will be sent to the Department's central offices in Springfield, Illinois, for verification. When the ticket is verified as a winning ticket, the prize will be mailed to the claimant. Prizes in the amount of \$1,000,000 or more may be claimed only at the Department's administrative offices in Springfield and Chicago, or alternate site mutually agreed to by the Department and the claimant, and absent extenuating circumstances, only by appointment so that appropriate Department personnel are available to assist in the claim process. The Director may require claimants of \$1,000,000 or more to participate in a press conference as part of the claim process, in order to assure the public that prizes are being awarded and maintain public trust in the Lottery. For purposes of press conference requirements, the claimants are the ultimate recipients of the prize, such as the beneficiaries of a trust, the partners in a partnership, or the members of a club or group.
- d) Prizes of less than \$600 claimed by multiple winners playing as partners or as a group, with common ownership of a winning ticket at the time of the prize drawing, shall be claimed in the individual name of one of the partners or members of the group. Payment of any claim filed on behalf of such an individual group member shall be in the same manner as if filed on behalf of a single claimant.
- e) Prizes of \$600 up to \$1,000,000 claimed by multiple winners playing as

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partners or as a group, with common ownership of a winning ticket at the time of the prize drawing, may be claimed in the individual name of one of the partners or members of the group. Any claim filed on behalf of such an individual group member shall be filed in the same manner as if filed on behalf of a single claimant, but must be accompanied by a form 5754 setting forth the names, addresses, social security numbers and prize shares of all other persons entitled to a share of the prize. The Department will process a voucher payable to each individual listed on the form 5754, dividing the winnings equally, or as otherwise designated on the form 5754. The Department will then process payment vouchers to the office of the Comptroller for preparation of warrants and end of year income tax withholding documents. Claim and payment may be made in a partnership name only if the partnership furnishes a Federal Employer's Identification Number (FEIN).

- f) Prizes in the amount of \$1,000,000 or more claimed by multiple winners playing as partners or as a group, with common ownership of a winning ticket at the time of the prize drawing, must be claimed in a partnership or group name. Payment will be made out to a partnership as a single payee, or to each of the individual partners or group members, as requested in writing by the winners and provided that each individual's gross annual payment will equal or exceed \$5,000. Partnership claims shall include the name, address and (if one check is requested) Federal Employer's Identification Number of the partnership, the ticket and claim form must be signed by one of the general partners on behalf of the partnership, and the claim form must be accompanied by a form 5754 setting forth the names, addresses, social security numbers and prize shares of each partner. Prior to payment, the partnership must submit a written partnership agreement evidencing, at a minimum, that an oral agreement for group play existed prior to the purchase of the winning lottery ticket. The partnership agreement shall be subject to review by the Department's legal staff, and may not contain provisions contrary to law. Where separate checks have been requested, the partnership must additionally furnish payment instructions for each partner. Group claims shall include a group name and the address and Social Security Number of the representative signing the ticket and claim form, and be accompanied by a form 5754 setting forth the names, addresses, Social Security Numbers and prize shares of all group members. A group play agreement may additionally be required. Claims by other entities such as corporations or trusts must be in the name of the entity as established prior to ticket purchase, provide the taxpayer identification number of the entity and be signed by an authorized representative. Payment will be in the name and under the taxpayer identification number of the claiming entity.
- g) Lottery clubs, charitable organizations, corporations, partnerships and other "artificial" persons shall be eligible to purchase lottery tickets. However, with respect to awards of prizes for life, such

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"artificial" persons shall be entitled to the minimum guaranteed prize.

h) Prizes claimed but unpaid at the time of a prize winner's death shall be treated as follows:

- 1) Any prize, or portion thereof remaining unpaid at the death of a winner, may be paid to the estate of such deceased prize winner, or to the designated trustee under a revocable living trust established by the deceased prize winner, as settlor, provided that a copy of such trust has been filed with the Department, along with a notarized letter of direction from the settlor, and no written notice of revocation has been received by the Department prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the Director shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the Department harmless with respect to any claims that may be asserted against the Department arising from payment to, or through the trust.

- 2) The payment of prize installments due with respect to a prize winner whose death occurs prior to payment of the final installment may be accelerated under certain circumstances. At the election of the estate or successor trustee of an individual prize claimant, the estate or trustee may have the option to request, within six months from the date of death, that the annuity or equivalent investment securities procured by the Department for purposes of generating annual installment prize payments be liquidated at current market value and paid over to the personal representative of the estate or beneficiary successor trustee, as appropriate. In the case of a prize claimed by a partnership or group, the right to request liquidation of the decedent's remaining prize may be available to the decedent's personal representative or successor trustee, but only if the decedent is entitled to receive one-third or more of the claimed prize. Upon receipt of notice of election to liquidate the remaining prize, if the prize payment has been structured through purchase of an annuity and the annuity contract permits early liquidation, the Department shall promptly notify the annuity company and request that the annuity be liquidated and the commuted (check) value be paid to the personal representative or successor trustee. If the Department has procured investment securities to generate income for satisfaction of future prize installments, the Department, as soon as practicable after such notification, and without jeopardy to the common investment position of securities purchased in connection with payment of future installments to other winners of Grand Prizes from the same drawing date as decedent, shall offer such securities for market sale and shall pay the personal representative or successor trustee the proceeds of sales

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attributable to decedent's prize. Prior to such distribution, the Department shall deduct from the proceeds of sales such sum as may be required to absorb from the share of the party requesting liquidation, any penalties or losses incidental to sale, and to restore the investment position of securities purchased with respect to any other same-date winners to the position held prior to liquidation. The balance of the proceeds of sale attributable to decedent's prize shall be distributed. Prior to authorizing accelerated liquidation of any prize, the Department shall obtain from each personal representative or successor trustee requesting such liquidation a complete release of any further liability of the Department for further payment with respect to the decedent's prize upon liquidation as provided herein, and the Department in liquidating the investment vehicle for any such prize shall be discharged of any further liability with respect to such prize beyond the amount actually realized through liquidation. Any election pursuant to this subsection must be in writing and shall be irrevocable.

- 3) No right to accelerate installment payments shall accrue to the estate of a prize for life winner when the guaranteed minimum payment has not yet been paid. Rather, installment payments shall continue until the guaranteed minimum prize has been paid.
- i) Cash prizes must be claimed within a claim period set by Departmental directive and the game rules establishing claim periods for the respective games offered by the Department. Unclaimed prize money shall be retained by the Director for the person entitled thereto, for the claim period after the date of the drawing in which the prize is won, as established by game rule. Thereafter, said unclaimed prize funds will be managed as provided in statute.
- j) Winning tickets which provide entry into a Preliminary Grand Prize drawing for any instant game must be filed with the Department by the deadline established in the game rules. Entry tickets filed after the Preliminary Grand Prize qualification drawing for the game with respect to which the tickets were sold will be entered into the Preliminary Grand Prize Drawing pool for the next game drawing subsequent to filing of such tickets, provided that no such ticket will be eligible for entry into a subsequent drawing unless filed with the Department, within 120 days after the announced end of the game for which the ticket was originally sold, provided, however, that the Director may establish lesser claim periods for specific games by directive and game rule.
- k) For prizes in excess of \$10,000, a winner must identify his or her place of employment, if any, to ensure the winner is not prohibited from lottery play by the Act or these rules. For partnership claims, each partner must furnish employment information.
- l) The net revenues accruing from the sale of lottery tickets shall be determined by deducting from total revenues the payments of prizes to holders of winning tickets and payment of costs incurred in the

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operation and administration of the Department. The Department may transfer income in excess of current operating needs to the Common School Fund.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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1) Heading of the Part: The Taking of Wild Turkeys - Spring Season

2) Code Citation: 17 Ill. Adm. Code 710

3) Section Numbers: Proposed Action:
710.10 Amendments
710.22 Amendments
710.30 Amendments
710.50 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code (520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11).

5) A Complete Description of the Subjects and Issues Involved: Amendments are being made to this Part to open new counties, clarify tagging requirements for harvested turkeys, and open and close State-owned or -managed sites to the spring season.

6) Will this rulemaking replace any emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part?
No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield, IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect to small businesses, small municipalities and not for profit corporations.

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B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None 13)
Regulatory Agenda on which this rule was summarized: July 1998

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER e: LAW ENFORCEMENT

PART 710

THE TAKING OF WILD TURKEYS - SPRING SEASON

Section	
710.5	Hunting Zones
710.10	Hunting Seasons
710.20	Statewide Turkey Permit Requirements
710.21	Turkey Permit Requirements - Special Hunts (Renumbered)
710.22	Turkey Permit Requirements - Landowner/Tenant Permits
710.25	Turkey Permit Requirements - Special Hunts
710.28	Turkey Permit Requirements - Heritage Youth Turkey Hunt
710.30	Turkey Hunting Regulations
710.40	Other Regulations (Repealed)
710.50	Regulations at Various Department Owned or Managed Sites
710.55	Special Hunts for Disabled Hunters
710.60	Releasing or Stocking of Turkeys

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

SOURCE: Adopted at 4 Ill. Reg. 15, p. 153, effective April 1, 1980; codified at 5 Ill. Reg. 10643; amended at 6 Ill. Reg. 3852, effective March 31, 1982; amended at 7 Ill. Reg. 4208, effective March 25, 1983; amended at 8 Ill. Reg. 5663, effective April 16, 1984; amended at 9 Ill. Reg. 6200, effective April 24, 1985; amended at 10 Ill. Reg. 6848, effective April 4, 1986; amended at 11 Ill. Reg. 2267, effective January 20, 1987; amended at 12 Ill. Reg. 5342, effective March 8, 1988; amended at 13 Ill. Reg. 5090, effective April 4, 1989; amended at 14 Ill. Reg. 663, effective January 2, 1990; amended at 15 Ill. Reg. 4161, effective March 4, 1991; amended at 16 Ill. Reg. 1843, effective January 17, 1992; amended at 17 Ill. Reg. 3184, effective March 2, 1993; amended at 18 Ill. Reg. 1156, effective January 18, 1994; emergency amendment at 18 Ill. Reg. 3751, effective March 1, 1994, for a maximum of 150 days; emergency expired July 29, 1994; amended at 19 Ill. Reg. 2450, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5312, effective April 1, 1995, for a maximum of 150 days; emergency expired August 29, 1995; amended at 20 Ill. Reg. 777, effective December 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 3125, effective March 3, 1997; amended at 22 Ill. Reg. 2192, effective January 2, 1998; amended at 22 Ill. Reg. _____, effective _____.

Section 710.10 Hunting Seasons

a) Northern Zone Season Dates:

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- 1st Season: Monday, April 12 - Friday, April 16, 1999
Monday, April 13 - Friday, April 17, 1999
- 2nd Season: Saturday, April 17 - Thursday, April 22, 1999
Saturday, April 18 - Thursday, April 23, 1999
- 3rd Season: Friday, April 23 - Friday, April 30, 1999
Friday, April 24 - Friday, May 1, 1999
- 4th Season: Saturday, May 1 - Wednesday, May 12, 1999
Saturday, May 2 - Wednesday, May 13, 1999
- b) Southern Zone Season Dates:
- 1st Season: Monday, April 5 - Friday, April 9, 1999
Monday, April 6 - Friday, April 10, 1999
- 2nd Season: Saturday, April 10 - Thursday, April 15, 1999
Saturday, April 11 - Thursday, April 16, 1999
- 3rd Season: Friday, April 16 - Friday, April 23, 1999
Friday, April 17 - Friday, April 24, 1999
- 4th Season: Saturday, April 24 - Wednesday, May 5, 1999
Saturday, April 25 - Wednesday, May 6, 1999

c) Open Counties:
NORTHERN ZONE

Adams
 Boone
 Brown
 Bureau
 Calhoun
 Carroll
 Cass
 Christian
 Clark
 Coles
 Cumberland
 Fulton
 Greene
 Grundy
 Hancock
 Henderson
 Henry
 Jersey
 Jo Daviess
 Kankakee
 Knox

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LaSalle
 Lee
 Logan
 Macoupin
 Marshall-Putnam
 Mason
 McDonough
 Menard
 Mercer
 Montgomery
 Morgan
 Ogle
 Peoria
 Pike
 Rock Island
 Sangamon
 Schuyler
 Scott
 Shelby
 Stephenson
 Tazewell
 Vermilion
 Warren
 Whiteside
 Winnebago
 Woodford

SOUTHERN ZONE

Alexander
 Bond
 Clay
 Clinton
 Crawford
 Edwards
 Effingham
 Fayette
 Hamilton
 Gallatin-Hardin
 Jackson
 Jasper
 Jefferson
 Johnson
 Lawrence
 Madison
 Marion
 Massac
 Monroe
 Perry
 Pope

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Pulaski
Randolph
Richland
Saline
St. Clair
Union
Wabash
Washington
Wayne
White
Williamson

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 710.22 Turkey Permit Requirements - Landowner/Tenant Permits

- a) The "immediate family" is defined as the spouse, children, and parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit.
- A hunting rights lease, or other non-agricultural lease, is not valid for a landowner or tenant permit.
- c) Resident landowners who own 40 acres or more of land, and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family may apply for one free turkey permit for their property only in counties open for turkey hunting. All resident landowners/tenants that do not reside on the property must possess a valid hunting license. Non-resident Illinois landowners of 40 or more acres of land and members of their immediate family are eligible to receive a permit for their property only for a fee of \$37.50.
- d) Landowners or tenants are not required to participate in the public drawing for permits. Landowner/tenant permits are valid for the entire 31 days encompassed by the 4 seasons, but allow the taking of only one wild turkey.
- e) Recipients of Landowner/Tenant permits to hunt their owned or leased property may apply for a second permit in the third lottery (the first working day after February 8), and a third permit in the Random Daily Drawing period that begins the first working day after March 8. Fees for these additional permits shall be \$15 for residents and \$25 for nonresidents.
- f) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:
- 1) Submittal of a copy of property deed;
 - 2) Submittal of a copy of contract for deed;

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- 3) Submittal of copy of most recent real estate tax statement upon which landowner's name appears;
- 4) Submittal of a copy of a Farm Service Agency 156EZ form the authorized--form--from--the--USDA--Natural--Resource--Conservation Service; or
- 5) Submittal of a copy of trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.
- g) If you are applying for a tenant permit, you are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:
- 1) Submittal of a copy of a lease (not a hunting rights lease) or rental agreement, file stamped as recorded by the County Clerk, covering the current year; or
 - 2) Submittal of a copy of a Farm Service Agency 156EZ form the authorized--form--from--the--USDA--Natural--Resource--Conservation Service.
- h) If the property is owned or rented by more than one person: Only one landowner (and his immediate family) or one tenant (and his immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate families may receive turkey permits.
- i) Shareholders of corporations owning 40 or more acres of land in a county may apply for a free permit to hunt the corporation lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county, shall be issued based on ownership of lands by corporations. Lands leased to corporations shall not be considered as a basis for a free permit for the shareholders of the lessee. Lands held in trust by corporations shall not be considered as a basis for a free permit by the shareholders of the trustee. If application is made for a free permit based upon lands owned by the corporation, a duly authorized officer of the corporation must sign a notarized statement authorizing the applicant to hunt on the corporate lands for which a permit is being requested. This statement must identify the applicant as a shareholder, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation lands. This document must be attached to the application upon submittal to the Permit Office.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 710.30 Turkey Hunting Regulations

It is unlawful:

- a) to use live turkey decoys, recorded calls, dogs, or bait (an area is considered as baited during the presence of and for 10 consecutive days following the removal of the bait);

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- b) to take any wild turkey except a hen with a visible beard or a gobbler (male);
- c) to take, or attempt to take, more than three wild turkeys during the spring season, one must have a valid permit for each turkey that is taken;
- d) to use any weapon except a shotgun or bow and arrow. #4 shot is the largest and #7 1/2 is the smallest size shot that may be legally used. Archers may use a long, recurved, or compound bow with a minimum pull of 40 pounds at some point within a 28-inch draw. Minimum arrow length is 20 inches and broadheads must be used. Broadheads may have fixed or expandable blades, but they must be barbed and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-napped; broadheads with expandable blades must be metal. Any mechanical device capable of maintaining a drawn position or partially drawn position on a bow is illegal. All other bows and arrows, including electronic arrow tracking systems, are illegal;
- e) to hunt except from 1/2 hour before sunrise to noon during each day of the season;
- f) for any person having taken the legal limit of wild turkey(s) to further participate with a weapon in any hunting party for the purpose of taking additional wild turkeys;
- g) for any person to possess while in the field during wild turkey season any turkey permit issued to another person (permits are non-transferable);
- h) to transport or leave a wild turkey without first affixing the adhesive-backed turkey permit securely around the leg. Leg tag must be affixed to the turkey immediately upon kill and before the turkey is moved, transported or field dressed. The wild turkey shall be taken whole (or field dressed) to the designated check station for the county in which it was killed, or the closest check station, by the hunter in person, by 2:00 P.M. the same day it was killed. It will be checked, tagged and recorded by the Department at the check station. The leg tag must remain attached to the leg of the turkey until it is at the legal residence of the person who legally took or possessed the turkey;
- i) for any person to shoot a wild turkey while it is in a tree before 7:00 a.m.;
- j) for any person to hunt wild turkeys without possessing a Wild Turkey Hunting Permit which shall include the hunter's signature recorded on the permit and carried on the person while hunting;
- k) for any person to use a turkey call that imitates sounds made by a turkey or to attempt to call a turkey by making these sounds while in the field from March 15 through the day before turkey season in counties open to turkey hunting.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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Section 710.50 Regulations at Various Department Owned or Managed Sites

- a) Hunters must sign in/sign out at all sites in subsections (b) and (c) which are followed by a (1).
- b) Statewide regulations shall apply for the following sites:

Anderson Lake Conservation Area (1)

Argyle Lake State Park (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Carlyle Lake Wildlife Management Area

Cypress Pond State Natural Area (1)

Dog Island Wildlife Management Area (1)

Ferne Clyffe State Park - Cedar Draper Bluff Hunting Area (1)

Fort de Chartres State Historic Site (muzzleloading shotgun or archery only) (1)

Franklin Creek State Park (1)

Giant City State Park (1)

Horseshoe Lake Conservation Area - Alexander County (controlled goose hunting area and public hunting area only)

I-24 Wildlife Management Area (1)

Jubilee State Park (archery only) (1)

Kaskaskia River State Fish and Wildlife Area (except for that area lying north of Highway 154, east of the Kaskaskia River, and south of the Risdon School Road and Beck's Landing access road) (1)

Kinkaid Lake Fish and Wildlife Area (1)

Mark Twain National Wildlife Refuge, Gardner Division

Mississippi River Fish and Wildlife Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22, and 24

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Oakford Conservation Area

Pere Marquette State Park (designated area only) (1)

Ray Norbut Fish and Wildlife Area (1)

Rend Lake State Fish and Wildlife Area

Saline County Fish and Wildlife Area (1)

Sanganois Conservation Area

Sielbeck Forest State Natural Area (1)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County Conservation Area - Firing Line Unit and Public Hunting Area only (1)

Weinberg-King State Park (1)

Wildcat Hollow State Forest (1)

- c) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.20. This permit is only valid for the specific site and season indicated on the permit.

Apple River Canyon State Park (1)

Beaver Dam State Park

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (1)

Castle Rock State Park (1)

Chauncey Marsh

Crawford County Conservation Area

East Conant

Ferne Clyffe Hunting Area (1)

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Fort Massac State Park (Youth Ages 10-15 only) (1)

Fox Ridge State Park (1)

Green River State Wildlife Area (1)

Hamilton County Conservation Area

Harry 'Babe' Woodyard State Natural Area (1)

Hidden Springs State Forest (first 2 seasons only) (1)

Johnson-Sauk Trail State Park (1)

Kickapoo State Park (1)

Lake Shelbyville-Corps of Engineers Managed Lands (Shelby County)

Lowden Miller State Forest (1)

Mackinaw River Fish and Wildlife Area (1)

Marshall Fish and Wildlife Area (1)

Mermet Lake State Fish and Wildlife Area (1)

Middlefork State Fish and Wildlife Management Area (1)

Mississippi Palisades State Park (closes after the second Sunday of the fourth season; fourth season permits will be limited to those remaining after the disabled hunt drawing) (1)

Newton Lake Fish and Wildlife Area

Panther Creek Conservation Area

Pere Marquette State Park (Piasa, Quotoga, Potawatomi Camp Areas) (no hunting allowed on weekends)

Pyramid State Park (1)

Ramsey Lake State Park (1)

Randolph County Conservation Area (1)

Red Hills State Park

Sam Dale Lake Conservation Area (1)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED RULES

- 10) Statement of Statewide Policy Objectives: This rule will not create or expand a State mandate.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

John Arthur
Office of Banks and Real Estate
500 East Monroe, Suite 900
Springfield IL 62701
(217) 782-3000

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Pawnbrokers
- B) Reporting, bookkeeping or other procedures required for compliance: License application (see Section 360.11), change of ownership application processing (see Section 360.150), disclosure form reporting (see Section 360.210) and renewal of licensure (see Section 360.160)
- C) Types of professional skills necessary for compliance: Minimal word processing skills

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Rules begins on the next page:

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED RULES

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

PART 360
LICENSING AND REGULATION OF PAWNBROKERS

SUBPART A: DEFINITIONS

Section
360.10
Definitions

SUBPART B: PAWNSHOP LICENSE

Section
360.100 Purpose
360.110 Application for License
360.120 Processing of Application
360.130 Standards for Licensure
360.140 Initial Applications for License from Persons Operating or Who Have Operated a Pawnshop for the Two Years Preceding July 1, 1998
360.150 Change in Control or Form of Ownership, Change in Location, Change in Name of Pawnshop, Voluntary Surrender of License; Fees
360.160 Expiration and Renewal of Licenses; Fees
360.170 Display of License

SUBPART C: FORMS

Section
360.200 Purpose and Scope
360.210 Forms

SUBPART D: UNIFORM RULES FOR HEARINGS BEFORE THE COMMISSIONER

Section
360.300 Scope
360.310 Procedure for Hearings before the Commissioner

SUBPART E: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING TO ORDERS

Section
360.400 Scope
360.410 Grounds for an Order
360.420 Effective Date of Order; Service

SUBPART F: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING TO ASSESSMENT AND COLLECTION OF CIVIL MONEY PENALTIES

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Section
360.500 Scope
360.510 Assessment of Penalties
360.520 Effective Date of, Payment under, and Service of an Order to Pay

SUBPART G: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS FOR
REVOCATION OR SUSPENSION OF LICENSE

Section
360.600 Scope
360.610 Grounds for Suspension of License
360.620 Grounds for Revocation of License
360.630 Notice to Customers
360.640 Effective Date of Revocation or Suspension; Service

AUTHORITY: Implementing and authorized by the Pawnbroker Regulation Act [205 ILCS 510].

SOURCE: Emergency Rule adopted at 22 Ill. Reg. 12963, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 360.10 Definitions

For purposes of this Part:

"Applicant" means the individual or business entity applying to the Commissioner for a license.

"Commissioner" means the Commissioner of Banks and Real Estate, or a person authorized by the Commissioner to act in the Commissioner's stead.

"License" means the authority to operate a pawnshop as issued by the Commissioner.

"Licensee" means the individual or business entity who has been issued a license by the Commissioner.

"Pawnbroker" shall have the same meaning ascribed to that term in Section 1 of the Pawnbroker Regulation Act [205 ILCS 510/1].

"Pledger" means any person who has pledged tangible personal property as collateral for a pawn loan.

"Principal party" means any officer or director of a pawnshop or a

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corporation that owns or seeks to own a pawnshop; any manager of a limited liability company that is a pawnshop or that owns or seeks to own a pawnshop; any shareholder or member owning 10% or more of the outstanding stock or membership interests of a pawnshop or a business entity that owns or seeks to own a pawnshop; or any partner, whether general or limited, of a partnership that is a pawnshop or that owns or seeks to own a pawnshop.

"Respondent" means the person named in an administrative decision.

SUBPART B: PAWNSHOP LICENSE

Section 360.100 Purpose

This Subpart sets forth:

- a) where required applications and notices must be filed;
- b) the contents of the application package;
- c) the locations where the application package may be obtained;
- d) the procedures to be followed by both the Commissioner and the applicant during the processing of an application or notice; and
- e) the type of fee that will be levied for each type of application or notice. A copy of the fee schedule established by the Commissioner may be obtained upon written request.

Section 360.110 Application for License

- a) Requirement, where to file. Section 0.05(c) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(c)] provides that it is unlawful to operate a pawnshop without a license issued by the Commissioner. All requests for an application package must be directed to the Office of Banks and Real Estate, Bureau of Banks and Trust Companies, 500 East Monroe, Springfield, Illinois 62701-1532 (Telephone (217) 785-2900) or to the Office of Banks and Real Estate, Bureau of Banks and Trust Companies, 310 South Michigan Avenue, Suite 2130, Chicago, Illinois 60604-4278 (Telephone (312) 793-3000) by written correspondence or telephone. A separate license is required for each pawnshop location.
- b) Instructions, contents. An application for a license must be submitted on the form prescribed in Section 360.210 of this Part, in accordance with the Commissioner's instructions. An application for a license shall be made under oath and state the full name and address of the applicant together with any other relevant information the Commissioner shall require. The application shall also include, but not be limited to, the following requirements:
 - 1) Disclosure of Principal parties. The full name and place of residence of all principal parties must be provided.
 - 2) Background Investigation. The Commissioner may require that credit and criminal history record investigations be conducted on each applicant and principal party. Each applicant and principal

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party shall complete an Authorization For Release of Personal Information form that authorizes the Commissioner to conduct a criminal history record investigation and a review of retail credit agencies' records (including credit reports and ratings). At the request of the Commissioner, each applicant and principal party shall submit to, and have performed, a criminal history record investigation in the form and manner required by the Department of State Police and the Federal Bureau of Investigation. The Commissioner need not cause additional criminal history record investigations to be conducted on an applicant or principal party for whom the Commissioner or any other government agency has caused such investigations to have been conducted previously unless such additional investigations are otherwise required by law or unless the Commissioner deems such additional investigations to be necessary for the purposes of carrying out the Commissioner's statutory powers and responsibilities.

- 3) Fees. The applicant must submit the Application Fee of \$600 with the completed application. Unless otherwise permitted by the Commissioner, the payment of all fees shall be made by certified check, money order, an electronic transfer of funds, or an automatic debit of an account. Certified checks or money orders shall be made payable to the Office of Banks and Real Estate.

Section 360.120 Processing of Application

- a) Initial review. The Commissioner shall evaluate all applications within 30 business days after receipt and acknowledge completeness, identify deficiencies, and request additional information, if necessary. A completed application is one that conforms to the instructions provided in the application package and for which all fees have been paid. The Commissioner may reject an incomplete application.
- b) Failure to complete application. If a complete application has not been filed with the Commissioner within 30 business days after the Commissioner's request for additional information, the application shall be denied and the applicable fee shall be forfeited, unless a further extension of time has been granted by the Commissioner.
- c) Consideration of completed application. Upon receipt of a completed application and all required fees, a determination will be made by the Commissioner within 30 business days to approve or deny the application request, unless the Commissioner determines additional time is necessary. A written notice of the Commissioner's decision will be mailed to the applicant. The written notice for all denied applications will also include the reason(s) for denial. The applicable fee for all denied applications will not be refunded to the applicant.
- d) Petition for reconsideration. An applicant has the right to petition

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the Commissioner for reconsideration within 30 business days after receipt of the written notice of license denial. The petition must be in writing and should: address the reason(s) for denial as cited by the Commissioner, specify reasons why the Commissioner should reconsider the decision, and provide relevant information that supports the reasons set forth above. The Commissioner shall respond to all petitions within 30 business days after receipt, unless the Commissioner determines additional time is necessary.

Section 360.130 Standards for Licensure

Unless otherwise authorized by the Commissioner, in order to be eligible for a license to operate a pawnshop, each applicant and principal party must:

- a) if an individual, be eighteen years of age, or older;
 - b) not have been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop;
 - c) possess the character and general fitness necessary to warrant belief that the business will be operated in a lawful and fair manner.
- In determining whether to grant a license, the Commissioner shall consider the nature of the offense, the amount of time since the conviction, and any other mitigating factors the Commissioner may deem appropriate with regards to an applicant or principal party who has been convicted of a felony or any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop.

Section 360.140 Initial Applications for License from Persons Operating or Who Have Operated a Pawnshop for the Two Years Preceding July 1, 1998

Unless otherwise authorized by the Commissioner, for persons who have operated a pawnshop at any time between July 1, 1996 through June 30, 1998, in order to be eligible for a license to operate a pawnshop, each applicant and principal party must:

- a) not have been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop;
- b) provide the Commissioner with satisfactory evidence (e.g., a copy of a license issued from a municipality or copy of pages from a standard record book) that business activities were being conducted within the time period stated above.

In determining whether to grant a license, the Commissioner shall consider the nature of the offense, the amount of time since the conviction, and any other mitigating factors the Commissioner may deem appropriate with regards to an applicant or principal party who has been convicted of a felony or any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop.

Section 360.150 Change in Control or Form of Ownership, Change in Location,

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Change in Name of Pawnshop, Voluntary Surrender of License; Fees

- a) Change in Control or Form of Ownership. An application must be filed, by the acquiring party, not less than 30 days prior to the anticipated change in control or change in the form of ownership of a pawnshop. As used in this Section, "control" means a change involving the sale, assignment or transfer of a pawnshop; the addition or elimination of any general or limited partner; or a 10 percent or more change in the ownership of the outstanding stock of a corporation that owns a pawnshop. A change in the form of ownership is considered to be a change from a sole proprietorship to a partnership, or vice versa; a change from a sole proprietorship to a corporation, or vice versa; a change from a partnership to a corporation, or vice versa. The application must be submitted on the form prescribed in Section 360.210 of this Part, in accordance with the Commissioner's instructions. The payment of the applicable Change in Control or Form of Ownership Fee must accompany the application. No change in control or form of ownership shall occur until approved by the Commissioner. The Commissioner may prohibit a change in control or form of ownership from occurring if the licensee does not meet the license standards set forth in Section 360.130 of this Part. The processing of the application shall be conducted in the same manner as provided in Section 360.120 of this Part. The Change of Control or Form of Ownership Fee is \$300.
- b) Gift, Bequest, or Inheritance. Any person who, by gift, bequest, or inheritance, obtains ownership rights to an existing pawnshop or ownership rights in a company that controls the pawnshop such that ownership rights would constitute control of the pawnshop or company, may obtain title and ownership rights, but may not exercise management or control of the business and affairs of the pawnshop or vote so as to exercise management or control unless and until the Commissioner approves an application for the change of control as provided in this Section.
- c) Change in Location. An application to change the location of a pawnshop must be filed not less than 45 days prior to the anticipated date of relocation. The application must be submitted on the form prescribed in Section 360.210 of this Part, in accordance with the Commissioner's instructions, and the processing of the application shall be conducted in the same manner as provided in Section 360.120 of this Part. The payment of the applicable Change in Location Fee must accompany the application. At a minimum, the application shall include: the present name and address of the licensed pawnshop, the address and phone number of the proposed new location, the anticipated date of relocation, a list of the addresses of all pledgers with open pawn loans, and a sample copy of the written notice that shall be provided to the pledgers of open pawn loans. No relocation of a pawnshop may occur until approved by the Commissioner. The Commissioner may prohibit a relocation if it adversely affects the

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ability of pledgers to redeem pledged goods due to the distance between the locations. Upon approval of a change in location by the Commissioner, the licensee shall provide notification to all pledgers with open pawn loans by signs and written notice. The written notice shall be mailed to all pledgers with open pawn loans of record, at their last known mailing address, not less than 15 days prior to the anticipated date of relocation. The written notice must include the name of the pawnshop as well as identify both the old and the new locations, the telephone number of the new location, and the anticipated date of relocation. At a minimum, two signs, of reasonable size and visibility, shall be posted on the outside of the pawnshop for 15 business days prior to the relocation. The signs shall include the information provided in substantially the following form:

NOTICE OF CHANGE IN LOCATION (centered, in caps and bold)
(DATE)

(Name of Pawnshop) WILL BE MOVING TO (new address)

THE TELEPHONE NUMBER AT THE NEW LOCATION IS (telephone number)

THE ANTICIPATED DATE OF RELOCATION IS (date of relocation)

- The Commissioner may waive the notification to pledgers by mail if a determination has been made that no pledgers will be adversely affected by the relocation. Upon receipt of the completed form, payment of the applicable fee, and the Commissioner's approval, a new license shall be issued to the licensee. The licensee must surrender its former license to the Commissioner not less than 10 business days after the relocation has occurred, unless an exemption has been granted by the Commissioner. The Change of Location Fee is \$50.
- d) Change in Name of Pawnshop. Prior to the change in the name of a pawnshop, the licensee shall provide written notice to the Commissioner, not less than 30 days prior to the anticipated change, and pay the applicable fee, as established by the Commissioner. Upon receipt of the written notice and applicable fee, the Commissioner shall issue a new license. At such time, the licensee must surrender its former license to the Commissioner. The Change in Name Fee is \$50.
- e) Voluntary Surrender of License. Prior to the voluntary surrender of a license, the licensee shall provide not less than 60 days written notice to the Commissioner. The licensee shall also provide all pledgers with open pawn loans, at their last known mailing address, with 60 days written notice and shall publish a notice in two consecutive issues of a local newspaper of general circulation. At a minimum, the notice shall contain: the name and address of the pawnshop, the telephone number of the pawnshop, and the anticipated date on which business operations will cease. Prior to the cancellation of any license, the licensee shall certify to the

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Commissioner, in the manner prescribed by the Commissioner, that the pawnshop has no open pawn loans and that no further pawn loans shall be made. Upon receiving the certification from the licensee, the Commissioner shall cancel the license. At such time, the license shall be surrendered to the Commissioner. Ceasing business shall not impair or affect the obligation of either the pawnbroker or the pledger to fulfill the terms of any preexisting contract between them.

Section 360.160 Expiration and Renewal of Licenses; Fees

a) License Expiration. Every license shall expire on June 30 of each year. The holder of a license may request to renew such license by filing an application with the Commissioner.

b) License Renewal. All applications for license renewal for the succeeding license period must be mailed to the Commissioner and be postmarked no later than May 1 of each year. An application package and related instructions will be mailed to all licensees prior to April 1 of each year at the address listed on their most recent application. All applications must be submitted on the form prescribed in Section 360.210 of this Part, in accordance with the Commissioner's instructions. The payment of the applicable Renewal Fee must accompany the application. In addition to the applicable Renewal Fee, a Late Filing Fee of \$50 per day shall be assessed for all applications postmarked after May 1 of each year, unless an exception has been granted by the Commissioner. All applications for license renewal will be held to the standards set forth in Section 360.130 of this Part. The application process will be administered according to the rules set forth in Section 360.120 of this Part. The Renewal Fee will not be prorated.

Section 360.170 Display of License

The license must be conspicuously displayed for public view at the place of business provided on the license.

SUBPART C: FORMS**Section 360.200 Purpose and Scope**

This Subpart sets forth the forms required to be filed by statute or rule for reports, applications, and other requests. These forms must be completed in accordance with the Commissioner's instructions. The forms and instructions can be obtained from the Office of Banks and Real Estate.

Section 360.210 Forms

a) PAWNSHOP DISCLOSURE OF BUSINESS ACTIVITIES REPORT (Disclosure Report).

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This form is an annual report that shall be completed, according to the Commissioner's instructions, by each pawnshop to disclose such information, for the preceding calendar year, as required by the Commissioner pursuant to Section 7.5 of the Pawnbroker Regulation Act [205 ILCS 510/7.5]. The Disclosure Report must be filed with the Commissioner no later than 30 calendar days following the end of each calendar year.

- b) APPLICATION FOR LICENSE UNDER THE PAWNBROKER REGULATION ACT. This form shall be completed, according to the Commissioner's instructions, in order to apply for a license or renewal of license as required in Section 0.05(c) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(c)] and Section 360.110 and Section 360.160 of this Part.
- c) APPLICATION FOR A CHANGE IN CONTROL OR A CHANGE IN THE FORM OF OWNERSHIP OF AN ILLINOIS PAWNSHOP. This form shall be completed, according to the Commissioner's instructions, in order to apply for the approval of a change in control or a change in the form of ownership of a pawnshop as required in Section 360.150 of this Part.
- d) APPLICATION TO CHANGE THE LOCATION OF AN ILLINOIS PAWNSHOP. This form shall be completed, according to the Commissioner's instructions, in order to apply for a change in the location of a pawnshop as required in Section 360.150 of this Part.

SUBPART D: UNIFORM RULES FOR HEARINGS BEFORE THE COMMISSIONER**Section 360.300 Scope**

This Subpart prescribes rules of practice and procedure applicable to hearings as a result of the following administrative decisions made by the Commissioner:

- a) orders under Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)];
- b) assessment of civil money penalties under Section 0.05(a)(6) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(6)];
- c) suspension of license under Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)];
- d) revocation of license under Section 0.05(a)(10) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(10)]; and
- e) denial of an application under Section 360.120 of this Part.

Section 360.310 Procedure for Hearings before the Commissioner

If the respondent has specific grounds for believing the evidence upon which an administrative decision is based is not factual, then the respondent may request a hearing before the Commissioner. The procedure for hearings before the Commissioner will be conducted according to Part 392 of the Office of Banks and Real Estate rules entitled "Hearings Before the Office of Banks of Real Estate" (38 Ill. Adm. Code 392).

SUBPART E: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING

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TO ORDERS

Section 360.400 Scope

The rules and procedures in this Subpart shall apply to proceedings in connection with an order issued by the Commissioner pursuant to Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)]. The Commissioner may issue an order to a licensee, principal party, employee, agent, or other entity doing business without the required license.

Section 360.410 Grounds for an Order

An order may be issued when, in the opinion of the Commissioner, the licensee, principal party, employee, agent, or any other entity doing business without the required license is violating, has violated, or is about to violate, any law, rule, or order relating to a pawnshop or is engaged, has engaged, or is about to engage in any unethical or fraudulent activity.

Section 360.420 Effective Date of Order; Service

An order issued by the Commissioner is effective when served upon the licensee, agent, or other entity doing business without the required license. All orders shall remain effective and enforceable when served, except to the extent they are stayed, modified, terminated, or set aside by the Commissioner. Service of an order shall be made upon every party of record by hand delivery or by certified mail, return receipt requested. Delivery to the United States Postal Service shall be presumed to constitute delivery to the respondent, agent, or other entity doing business without the required license.

SUBPART F: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING TO ASSESSMENT AND COLLECTION OF CIVIL MONEY PENALTIES**Section 360.500 Scope**

The rules and procedures of this Subpart shall apply to proceedings to assess and collect civil money penalties. The Commissioner has the power to assess civil money penalties pursuant to Section 0.05(a)(6) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(6)].

Section 360.510 Assessment of Penalties

- a) Relevant Considerations. In determining the amount of the civil penalty to be assessed, the Commissioner shall consider the gravity of the violation, the history of previous violations, the financial resources and good faith of the licensee or other principal parties, and any such other matters as justice may require.
- b) Amount. The Commissioner may assess civil money penalties graduated up to \$1,000 against any person for each violation of any provision of

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the Pawnbroker Regulation Act, any rule promulgated in accordance with the Pawnbroker Regulation Act, or any order issued by the Commissioner.

Section 360.520 Effective Date of, Payment under, and Service of an Order to Pay

- a) Effective date. Unless otherwise provided, civil money penalties assessed pursuant to this Subpart are due and payable 60 days after the order is served on the respondent.
- b) If the respondent both requests a hearing and serves an answer, civil penalties assessed pursuant to this Subpart are due and payable 60 days after an order to pay, issued after the hearing or upon default, is served upon the respondent, unless the order provides for a different period of payment. Civil penalties assessed pursuant to an order to pay issued upon consent are due and payable within the time specified in the order.
- c) Payment. All penalties collected under this Subpart shall be paid by certified check or money order and be made payable to the Office of Banks and Real Estate.
- d) Service. Service of a civil money penalty shall be made upon each respondent by hand delivery or by certified mail, return receipt requested. Delivery to the United States Postal Service shall be presumed to constitute delivery to the respondent.

SUBPART G: RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS FOR REVOCATION OR SUSPENSION OF LICENSE**Section 360.600 Scope**

The rules and procedures in this Subpart shall apply to proceedings in connection with the suspension of license of a pawnshop pursuant to Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)] and the revocation of license of a pawnshop pursuant to Section 0.05(a)(10) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(10)]. The revocation or suspension of license shall not impair or affect the obligation of either the pawnbroker or the pledger to fulfill the terms of any preexisting memorandum, contract, or note.

Section 360.610 Grounds for Suspension of License

- The following are grounds for suspension of license pursuant to Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)]:
- a) violations of the Pawnbroker Regulation Act;
 - b) violations of any rule promulgated in accordance with the Pawnbroker Regulation Act; or
 - c) violations of any other applicable law in connection with the operations of a pawnshop.

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Section 360.620 Grounds for Revocation of License

The following are grounds for revocation of license pursuant to Section 0.05(a)(10) of the Pawnbroker Regulation Act (205 ILCS 510/0.05(a)(10)):

- a) a licensee has been convicted of a felony in connection with the operations of a pawnshop;
- b) a licensee knowingly or recklessly violates, or has continuously violated, the Pawnbroker Regulation Act, a rule promulgated in accordance with the Pawnbroker Regulation Act, or any order of the Commissioner;
- c) a fact or condition exists that, if it had existed or had been known at the time of the original application, would have justified license refusal; or
- d) the licensee knowingly submits materially false or misleading documents with the intent to deceive the Commissioner or any other party.

Section 360.630 Notice to Customers

If the Commissioner enters an order revoking the license of a pawnshop, the Commissioner shall, on the day the order becomes final, or such other day as the order prescribes, mail a written notification of revocation of license to all persons who have things in pledge at the most recent address listed on the pawn ticket. The Commissioner shall also publish the notification in two consecutive issues of a local newspaper of general circulation. The Commissioner shall be reimbursed by the licensee for all expenses incurred in connection with the notification. The Notification of License Revocation shall include the information provided in substantially the following form:

NOTIFICATION OF LICENSE REVOCATION (centered, in caps and bold)
(DATE)

1. Pursuant to Section 0.05(a)(7) of the Pawnbroker Regulation Act [205 ILCS 510/0.05(a)(7)], the license of (name of pawnshop) has been revoked as of (the date the order becomes final).
2. (Name and address of pawnshop) is no longer permitted to engage in the business of receiving property in pledge or as security for money or other thing advanced.
3. The revocation of license shall not impair or affect the obligation of either the pawnbroker or the pledger to fulfill the terms of any preexisting memorandum, contract, or note.
4. If you have a current business transaction with (name and address of pawnshop), you should contact (address and phone number of Commissioner's agent) within 30 business days to make arrangements for the disposition of any business transaction.
5. The grounds for the license revocation are (list all grounds as stated in the order).

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Section 360.640 Effective Date of Revocation or Suspension; Service

A revocation or suspension of license issued by the Commissioner is effective when served upon the respondent unless another date is specified. A suspension of license shall not exceed 30 days. All revocations or suspensions shall remain effective and enforceable, except to the extent they are stayed, modified, terminated, or set aside by the Commissioner. Service of the revocation or suspension of license shall be made upon every respondent by hand delivery or by certified mail, return receipt requested. Delivery to the United States Postal Service shall be presumed to constitute delivery to the respondent.

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NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Real Estate Appraiser Certification

2) Code Citation: 68 Ill. Adm. Code 1455

3) Section Numbers: Proposed Action:

1455.10 Repeal
1455.15 Repeal
1455.16 Repeal
1455.20 Repeal
1455.30 Repeal
1455.40 Repeal
1455.50 Repeal
1455.60 Repeal
1455.70 Repeal
1455.80 Repeal
1455.200 Repeal
1455.205 Repeal
1455.210 Repeal
1455.300 Repeal
1455.305 Repeal
1455.310 Repeal

4) Specific statutory citation upon which the rule is based and authorized:
Implementing Article 2 of the Real Estate License Act of 1983 [225 ILCS 455/Art. 2] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

5) A Complete Description of the Subjects and Issues Involved: The rule implemented the regulation of the real estate appraisal profession required by Article II of the Real Estate License Act of 1983, which was repealed effective July 1, 1998.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes

9) Are there any other proposed rulemakings pending on this Part? Yes

10) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Bill Brown

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED REPEALER

Office of Banks and Real Estate
500 East Monroe, Suite 900
Springfield, Illinois 62701
(217)782-3000

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Repealer begins on the next page:

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED REPEALER

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: OFFICE OF BANKS AND REAL ESTATE

PART 1455

REAL ESTATE APPRAISER CERTIFICATION (REPEALED)

SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

- Section 1455.10 Definitions
- 1455.15 Uniform Standards of Professional Appraisal Practice
- 1455.16 Jurisdictional Exceptions/Supplemental Standards
- 1455.20 Education and Experience Requirements for State Licensed Real Estate Appraiser
- 1455.30 Education and Experience Requirements for Certified Residential and Certified General Real Estate Appraiser
- 1455.40 Application as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser
- 1455.50 Examination
- 1455.60 Nonresident Licensure/Certification
- 1455.70 Nonresident/Temporary Practice
- 1455.80 Upgrade and Downgrade of Appraiser License/Certification

SUBPART B: EDUCATION PROVIDERS

- Section 1455.200 Approval of Education Providers/Courses
- 1455.205 Appraiser Continuing Education (CE)
- 1455.210 Fees - Education Providers/Courses (Repealed)

SUBPART C: GENERAL

- Section 1455.300 Renewals
- 1455.305 Fees
- 1455.310 Granting Variances

AUTHORITY: Implementing Article 2 of the Real Estate License Act of 1983 [225 ILCS 455/Art. 2] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Emergency rules adopted at 16 Ill. Reg. 16196, effective September 30, 1992, for a maximum of 150 days; rules adopted at 17 Ill. Reg. 1589, effective January 26, 1993; emergency amendment at 17 Ill. Reg. 6668, effective April 19, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13494, effective July 30, 1993; amended at 18 Ill. Reg. 2379, effective January 28, 1994; emergency amendment at 18 Ill. Reg. 3006, effective February 10, 1994,

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for a maximum of 150 days; amended at 18 Ill. Reg. 8428, effective May 24, 1994; amended at 19 Ill. Reg. 9176, effective June 26, 1995; emergency amendment at 19 Ill. Reg. 12503, effective August 16, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16604, effective December 1, 1995; amended at 20 Ill. Reg. 6488, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 1685, effective January 27, 1997; amended at 21 Ill. Reg. 5538, effective April 18, 1997; emergency amendment at 22 Ill. Reg. 4132, effective February 4, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998, for a maximum of 150 days; repealed by emergency rulemaking at 22 Ill. Reg. 12979, effective July 1, 1998, for a maximum of 150 days; repealed at 22 Ill. Reg. _____, effective _____.

SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

Section 1455.10 Definitions

"Act" means the Real Estate License Act of 1983 [225 ILCS 455].

"Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation. An appraisal may be classified by purpose into either a valuation or an analysis. A valuation is an estimate of the value of real estate or real property. An analysis is a study of real estate or real property other than estimating value.

"Appraisal Consulting" is the act or process of providing information, analysis of real estate data and recommendations or conclusions on diversified problems in real estate, other than estimating value.

"Appraisal Qualification Board" is a committee of the Appraisal Foundation established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"Appraisal Report" means any written communication of an appraisal.

"Appraisal Standard Board" is a committee of the Appraisal Foundation established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"Appraisal Subcommittee" means the federal Appraisal Subcommittee established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. Chapter 34A).

"Appraiser" or "real estate appraiser" means any person who inspects,

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analyzes, or renders an opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation.

"Certified General Real Estate Appraiser" means a real estate appraiser who holds a current, valid Certified General real estate appraiser's certificate issued under Article 2 of the Act.

"Certified Residential Real Estate Appraiser" means a real estate appraiser who holds a current, valid Certified Residential real estate appraiser's certificate issued under Article 2 of the Act.

"Commissioner" means the Commissioner of Banks and Real Estate.

"Committee" means the Real Estate Appraisal Committee established in Section 36.3 of the Act.

"Director" means the Director of Real Estate Appraisal appointed by the Commissioner, in accordance with Section 36.2a of Article 2 of the Real Estate License Act of 1983, to administer the Illinois appraisal program.

"Federally Related Transaction" means any real estate related financial transaction that:

a) a federal financial institution's regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates and requires the services of an appraiser; or

any other real estate related financial transaction for which a licensed or certified real estate appraiser is required under federal law or regulations.

"Federal Financial Institutions Regulatory Agencies (FFIRA)" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision and the National Credit Union Administration.

"Mass Appraisals" is defined as the process of valuing a universe of properties as of a given date, utilizing standard methodology, employing common data and allowing for statistical testing.

"Office (OBRE)" means the Office of Banks and Real Estate or its predecessor agencies.

"Real Estate" means an identified parcel or tract of land, including improvements, if any.

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"Real Estate Related Financial Transaction" means any transaction involving:

the sale, lease, purchase, investment in or exchange of real property, or the financing thereof;

the refinancing of real property or interests in real property; or

the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

"Real Property" means one or more defined interests, benefits and rights inherent in the ownership of real estate.

"State Licensed Real Estate Appraiser" means a real estate appraiser who holds a current, valid real estate appraiser's license issued under Article 2 of the Act.

"USPAP" means the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

Section 1455.15 Uniform Standards of Professional Appraisal Practice

a) The 1997 Uniform Standards of Professional Appraisal Practice (USPAP), effective January 1, 1997, by the Appraisal Standards Board of the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005-3517, are hereby incorporated by reference with no later amendments or editions.

b) Real Estate Appraisers licensed/certified under the Act shall practice in accordance with USPAP standards except where the standard(s) is contrary to Illinois Law or public policy (USPAP, Jurisdictional Exception). Supplemental standards applicable to appraisals for specific purposes or property types may be issued by public agencies and certain client groups (e.g., regulatory agencies, eminent domain authorities, asset managers and financial institutions), provided that such supplemental standard(s) does not diminish the purpose, intent or content of the requirements of the USPAP.

c) A copy of USPAP is available for inspection in the Division of Real Estate Appraisal Administration, Office of Banks and Real Estate, located at 500 East Monroe, Suite 500, Springfield, Illinois 62701 and may be purchased at cost from the Office (OBRE), if available; and is available for purchase from the Appraisal Standards Board of the Appraisal Foundation.

Section 1455.16 Jurisdictional Exceptions/Supplemental Standards

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All written appraisal reports developed in part or solely by an Illinois Licensed/Certified Appraiser shall identify all persons providing significant contributions to the analysis and conclusions. Each appraiser's Illinois license/certification number, designated title (State Licensed, Certified Residential, or Certified General Real Estate Appraiser) and date of license/certification expiration shall appear near the name (and signature) on the appraisal certificate.

Section 1455.20 Education and Experience Requirements for State Licensed Real Estate Appraiser

- a) Education. A total of 75 hours of real estate appraisal courses are required for examination and licensure as a State Licensed Real Estate Appraiser. The 75 hours shall be in courses recommended by the Committee and approved by the Commissioner. Specific hour requirements are mandatory in each of 3 curricula.

1) Courses approved will be assigned to an Illinois (IL) curriculum and classroom hours must be achieved as follows:

- A) Standards of Professional Appraisal Practice--15 hours (IL I).
- B) Basic Principles of Appraisal--30 hours (IL II).
- C) Residential Valuation Procedures/Single Family Appraisal--30 hours (IL III).

2) Courses completed prior to January 1, 1993.

- A) Courses completed prior to January 1, 1993, shall be accepted by the Office (OBRE), upon review and approval of the Committee, if they are substantially equivalent to the courses in Section 1455.200(b). In determining substantial equivalence, the Committee shall compare the content of each course submitted to the topic requirements as set forth in Section 1455.200(b).

B) The Commissioner shall approve real estate appraisal courses, upon recommendation by the Committee, with or without a final examination and whether or not the provider was approved by OBRE.

C) Education credit may be earned by an applicant who successfully completes the examination(s) for approved course(s) even though the applicant did not participate in the classroom portion of the instruction.

3) All courses completed after January 1, 1993, shall be from course providers approved by OBRE in accordance with Section 1455.200. Credit will be earned only after course attendance and successful completion of a final examination.

4) Education credit may be earned by teaching courses approved by OBRE. To obtain education credit for teaching, the applicant shall provide verification from the education provider of the time period of employment and the course name.

- A) One hour of education credit for every one hour of classroom

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instruction shall be awarded.

- B) Education credit for teaching shall be awarded for only one presentation from each curriculum IL I, IL II, IL III, IL IV and IL V; however, credit will be given for presentation of two 15 hour courses in curriculum IL II, IL III, IL IV and IL V. (Credit shall not be allowed for repetitious presentations.)

C) Education credit for teaching shall be awarded for one presentation of each different course in IL E curriculum.

- b) Experience. Experience credit is not required for an applicant to sit for examination or for licensure; but, 500 hours of appraisal experience credit is required for the first renewal of a license following an original issue date of 24 months, or longer.

1) Documentation of the 500 hours of experience shall be submitted on forms provided by OBRE. To expedite processing, the documentation may be submitted with the original application for licensure or as soon as the experience requirement is met; otherwise, it shall be submitted with the renewal application.

2) The 500 hours of experience may be awarded for experience conforming to Section 1455.30(b)(3) through (6).

3) Mass appraisal experience may be submitted in accordance with Section 1455.40(a)(2)(B).

4) The 500-hour experience requirements may be waived by the Commissioner, upon recommendation of the Committee, in accordance with Section 36.11(e)(2) of the Act.

Section 1455.30 Education and Experience Requirements for Certified Residential and Certified General Real Estate Appraiser

An applicant for certification as a Certified Residential or Certified General Real Estate Appraiser shall meet the following education and experience requirements:

- a) Education. A total of 120 hours for Certified Residential Real Estate Appraiser and 165 hours for Certified General Real Estate Appraiser are required. The courses must be real estate appraisal courses recommended by the Committee and approved by OBRE. For Certified Residential, a specific hour requirement is mandatory in each of 4 curricula. For Certified General, a specific hour requirement is mandatory in each of 5 curricula.

1) Courses approved for Certified Residential Appraiser will be assigned to an IL curriculum as set forth in Section 1455.200(b), and classroom hours must be achieved as follows:

- A) Standards of Professional Appraisal Practice--15 hours (IL I).
- B) Basic Principles of Appraisal--30 hours (IL II).
- C) Valuation Procedures for Residential Property--30 hours (IL III).
- D) Elective Courses--45 hours (IL E).

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- time period of employment and the course name.
- A) One hour of education credit for every one hour of classroom instruction shall be awarded.
 - B) Education credit for teaching shall be awarded for only one presentation from each curriculum IL I, IL II, IL III, IL IV and IL V; however, credit will be given for presentation of two 15 hour courses in curriculum IL II, IL III, IL IV and IL V. (Credit shall not be allowed for repetitious presentations.)
 - C) Education credit for teaching shall be awarded for one presentation of each different course in IL E curriculum.
- b) Experience. Two years of appraisal experience is required for an applicant to be eligible to sit for the examination. Experience shall be earned in the following manner:
- 1) One year is defined as 1,000 hours and 12 months (2 years equal 2,000 hours and 24 months). A maximum of 1,000 hours of credit may be earned by the applicant in any calendar year; however, a minimum of 24 months of experience is required.
 - 2) The 2,000 hour experience requirement may be awarded from approved experience which shall include fee appraisal, staff appraisal, mass appraisal, ad valorem tax appraisal, mass ad valorem appraisal, review appraisal or appraisal analysis, highest and best use analysis, feasibility analysis or study, real estate sales and brokerage, real estate counseling, real property management, teaching of OBRE approved appraisal courses and authorship pertaining to real estate appraisal or related subjects.
- 3) For Certified Residential, a minimum of 50% of the requirement must be experience relating to residential property. For Certified General, a minimum of 50% of the requirement must be experience relating to nonresidential property. Hours shall be awarded for various types of appraisal and other experience as follows:
 - A) 20 hours for apartment property with 5-24 units.
 - B) 40 hours for apartment property with more than 24 units.
 - C) 20 hours for vacant land zoned for business, commercial, industrial; planned unit development, multiple family, single family which will accommodate more than one unit; and agriculture.
 - D) 20 hours for industrial property with buildings up to and including 25,000 square feet.
 - E) 40 hours for industrial property with buildings over 25,000 square feet.
 - F) 20 hours for office space up to and including 10,000 square feet.
 - G) 40 hours for office space over 10,000 square feet.
 - H) 20 hours for retail space up to and including 10,000 square feet.

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- i) Hours that have been approved in excess of the curriculum requirement, for courses in curricula IL I, IL II and IL III, will be credited as electives; however, repetitious coursework in the same curriculum will not be credited.
 - ii) Coursework in the IL IV and IL V curricula will be credited as electives; however, repetitious coursework in the same curriculum will not be credited.
- 2) Courses approved for Certified General Appraiser will be assigned to an IL curriculum as set forth in Section 1455.200(b), and classroom hours must be achieved as follows:
 - A) Standards of Professional Practice--15 hours (IL I).
 - B) Basic Principles of Appraisal--30 hours (IL II).
 - C) Valuation Procedures for Nonresidential Property--30 hours (IL IV).
 - D) Income Approach, Capitalization--30 hours (IL V).
 - E) Elective Courses--60 hours (IL E).
 - i) Hours that have been approved in excess of the requirement, for courses in curricula IL I, IL II, IL IV and IL V, will be credited as electives; however, repetitious coursework in the same curriculum will not be credited.
 - ii) Coursework in the IL III curriculum will be credited as electives; however, repetitious coursework in the same curriculum will not be credited.
- 3) Courses completed prior to January 1, 1993.
 - A) Courses shall be accepted by OBRE, upon review and approval of the Committee prior to January 1, 1993, if they are substantially equivalent to the curricula in Section 1455.200. In determining substantial equivalence, the Committee shall compare the content of each course submitted to the topic requirements as set forth in Section 1455.200.
 - B) The Commissioner shall approve real estate appraisal courses, upon recommendation by the Committee, with or without a final examination and whether or not the provider was approved by OBRE.
 - C) Education credit may be earned by an applicant who successfully completes the examination(s) for approved course(s) set forth in subsection (a) above even though the applicant did not participate in the classroom portion of the instruction.
 - 4) All courses completed after January 1, 1993, shall be from courses and course providers licensed by OBRE in accordance with Section 1455.200. Credit will be earned only after course attendance and successful completion of an examination.
 - 5) Education credit may be earned by teaching courses approved by OBRE. To obtain education credit for teaching, the applicant shall provide verification from the education provider of the

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- I) 40 hours for retail space over 10,000 square feet.
- J) 40 hours for specialized or special use property appraisals.
- K) 40 hours for operating or specialized agriculture property.
- L) 10 hours for single family residential property.
- M) 15 hours for 2, 3 and 4 unit residential property.
- N) 5 hours for vacant residential land.
- O) Additional hours may be credited for appraisals. Experience hours listed in A through N are considered typical. If an applicant feels more hours should be awarded for an appraisal, he/she must list the hours requested and attach a written justification to the appraisal log. OBRE will consider the additional hours based upon the applicant's justification statement and may request a photocopy of the appraisal(s) to assist in the decision. Experience credit will be awarded on time spent in the development of the appraisal and preparation of the report. Travel time will not be considered.
- P) Teaching Experience. Credit for teaching of OBRE approved appraisal courses shall not exceed 400 hours.
- i) To obtain credit for teaching experience, the applicant shall provide verification from the education provider of the time period of such employment and the course name;
 - ii) Two hours of experience credit for every hour in the classroom shall be awarded (up to 400 hours) upon approval of the experience by the Committee.
 - iii) Education credit for teaching shall be awarded for only one presentation from each curriculum IL I, IL II, IL III, IL IV and IL V; however, credit will be given for presentation of two 15 hour courses in curriculum IL II, IL III, IL IV and IL V. (Credit shall not be allowed for repetitious presentations.)
 - iv) Education credit for teaching shall be awarded for one presentation of each different course in IL E curriculum.
 - v) An applicant may not earn both education and experience credit for teaching the same course.
- Q) Authorship. Credit for authorship of appraisal or appraisal related material shall not exceed 200 hours. The applicant shall submit to OBRE, at the time of application, a copy of the article, textbook or other published material and a statement indicating the amount of time spent in preparing these materials. OBRE will evaluate the material and may award experience credit based upon its judgment as to the contribution of skill or knowledge to the applicant or appraisal industry.
- R) Real Estate Sales and Brokerage experience shall be accepted if the experience is directly related to performing or

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- reviewing appraisals, in accordance with Sections 1455.30(b)(3) through (6) and 1455.40(a)(2).
- S) Real Estate Counseling experience shall be accepted if it meets USPAP Standards 4 and 5. The experience will be awarded in accordance with Sections 1455.30(b)(3) through (6) and 1455.40(a)(2).
- T) Real Property Management experience shall be accepted if the experience is directly related to performing or reviewing appraisals, in accordance with Sections 1455.30(b)(3) through (6) and 1455.40(a)(2).
- U) Experience for mass appraisal, ad valorem tax appraisal and mass ad valorem appraisal shall be documented by the applicant's affidavit detailing the experience credit being requested; shall be certified by the assessment official in accordance with Section 36.11(b), Article 2, of the Act; and reported to OBRE in accordance with Section 1455.40(a)(2)(B).
- 4) Field and review appraisals conducted prior to January 1, 1992, shall:
- A) Identify and describe the real estate being appraised;
 - B) Contain an indication of highest and best use (analysis);
 - C) Identify the real property interests being appraised;
 - D) Contain a definition of the value being estimated;
 - E) Set forth the effective date of the value estimate and the date of the appraisal report;
 - F) Set forth all assumptions and limiting conditions that affect the analyses, opinions and conclusions;
 - G) Set forth (in the report or file memorandum) the appraisal procedures followed and the reasoning that supports the analysis, opinions and conclusions;
 - H) Include the signature of the individual responsible for the analysis, opinions and conclusions contained in the report. The applicant seeking experience credit shall have signed the report or shall be listed in the report as an individual who provided a significant contribution. An affidavit of significant contribution shall be considered by OBRE if it is signed by the appraiser who signed the report or by an official of the organization, government, firm or other entity who was responsible for causing the appraisal to be prepared.
- 5) Mass appraisal projects completed prior to January 1, 1992, shall have been performed by application of mass appraisal methods and techniques deemed professionally appropriate at the time the project was undertaken. In evaluating the mass appraisal experience, OBRE will consider methods and techniques employed relative to Standard 6 of USPAP and the participation in the mass appraisal project by the applicant.
- 6) Appraisals of all types prepared after January 1, 1992, must

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conform to the standards set forth in USPAP that were in effect on the date the appraisal was signed.

Section 1455.40 Application as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser

a) An applicant for examination/licensure/certification as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser shall file an application with the Office (OBRE) on forms provided by OBRE. The application shall remain valid for one year from the date of submission. The application shall include but not be limited to the following:

1) Verification of education (i.e., transcripts, certificates of course completion, official records from provider) as set forth in Section 1455.20 for State Licensed Appraiser and 1455.30 for Certified Residential Appraiser and Certified General Appraiser.

2) Verification of experience. All experience for the Certified Residential and Certified General Real Estate Appraisers shall meet the requirements set forth in Section 1455.30.

A) In accordance with Section 5836.11 of the Act, the applicant shall submit an appraisal log which shall include a general location (e.g., street, subdivision, office file number or parcel number) of the property; city and state location; date of the appraisal report; property type; approximate size of the property land and buildings; the tally of the hours being requested by the applicant; and a certifying statement that the applicant has personally inspected the property or his/her name appears in the appraisal report as having made a significant contribution to the report.

B) An applicant seeking mass appraisal experience shall include with the application his/her affidavit as prescribed in Section 36.11(b)(3) of the Act. The affidavit shall detail the experience being requested by the applicant and provide the following minimum information:

- i) The boundaries of the mass ad valorem tax appraisal/assessment project.
- ii) The number of parcels included in the mass ad valorem appraisal/assessment project.
- iii) The types of property (residential, commercial, industrial) included in the project and the ratio of each.
- iv) The time period in which the mass ad valorem tax appraisal/assessment took place.
- v) The number and type (residential or nonresidential) of properties valued (the analysis and establishment of values) through the cost, income and market sale

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appraisal techniques.

vi) The number and type (residential or nonresidential) of reviews and analyses of appraisals employing the cost, income and market sale appraisal techniques.

vii) The specific address where records pertaining to such mass ad valorem tax appraisals/assessments, ad valorem appraisals or appraisal reviews are filed.

viii) A certification, in accordance with Section 36.11(b) of Article 2 of the Act.

C) OBRE may require the applicant to provide selected samples of the appraisals submitted for experience credit.

3) A complete work history for a period of five years preceding the application date;

4) The required fee provided for in Section 36.6 of the Act; and

5) Certification from the state or territory of the United States or the foreign country in which the applicant was originally licensed/certified as a real estate appraiser and any location in which the applicant is currently licensed/certified as a real estate appraiser, if applicable, stating:

- A) The time during which the applicant was licensed/certified, and
 - B) Whether the file of the applicant contains any record of any disciplinary actions taken or pending.
- b) When the accuracy of any submitted documentation or the relevance or sufficiency of the coursework or experience is questioned by OBRE or the Committee because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure/certification shall be requested to:
- 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Committee or the Director to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.
- c) Upon receipt of the application and all supporting documentation, the applicant's file will be evaluated by OBRE. The applicant will be notified in writing of approval to sit for the examination or the reasons the application has been deferred or denied.

Section 1455.50 Examination

- a) The examination administered by the Office (OBRE) or its designated testing service shall be an examination which covers the content of the National Uniform Examination and is approved by the Appraisal Qualification Board.
- b) The passing score on the examination shall be 75.
- c) OBRE shall accept the examination results of an Illinois appraisal candidate who has taken the examination for certification or licensure in another jurisdiction under the following conditions:
 - 1) The examination has been approved by the Appraisal Qualification

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Board.

- 2) The examination taken in another jurisdiction can only be applied toward an Illinois equivalent appraisal category. If there is no equivalent category, the examination would not be accepted.
- 3) The examination report is the official test score report from the testing entity.

- A) The applicant is responsible for obtaining the report from the testing entity and paying any fees to obtain the report.
- B) OBRE will not accept or apply the test results until such time as the applicant is notified of having met all requirements for licensure or certification in Illinois.
- C) OBRE will not issue a license or certificate until receipt from the applicant of the federal fee required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Section 1455.60 Nonresident Licensure/Certification

- a) A license/certification shall be issued without examination to a nonresident real estate appraiser licensed/certified under the laws of his/her home state if:
 - 1) The appraiser applicant is the holder of an active license or certification in his/her home state;
 - 2) The standards of that state for licensing/certifying as a real estate appraiser are substantially equivalent to the minimum standards in Illinois;
 - 3) The real estate appraiser's home state grants reciprocal privilege to real estate appraisers licensed/certified in Illinois; and
 - 4) There is no disciplinary proceeding pending or unresolved against the applicant in his/her home state.
- b) The real estate appraiser shall file an application, on forms provided by the Office (OBRE), which includes:
 - 1) A statement bearing the seal of the licensing authority in the state in which he/she is licensed/certified, showing an active license/certification as a real estate appraiser;
 - 2) A certification of irrevocable consent required by Section 5836.13 of the Act;
 - 3) The business address in the state of reciprocity;
 - 4) The required fee provided for in Section 36.6(1) and (2) of the Act.
- c) Upon request by OBRE, the real estate appraiser shall attest in writing, on forms supplied by OBRE, to the fact that the license is active and in good standing and that he/she understands that the reciprocal license is valid only as long as he/she remains a resident of that state and will be invalid on the date his/her home state license/certification is expired, is suspended, is inactive or otherwise not in good standing.

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- d) A reciprocal license/certification becomes invalid when the licensee changes his/her residence to Illinois or any other state.
- e) All requirements for licensure by reciprocity shall be met within one year of the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be considered for licensure, such applicant shall file a new application and fee.

Section 1455.70 Nonresident/Temporary Practice

- a) A nonresident appraiser, licensed/certified in another jurisdiction, may apply for a temporary appraisal practice permit by filing with the Office (OBRE), on an application provided by OBRE. The information submitted on the application shall include, but not be limited to, the following:
 - 1) The applicant's name, address, social security number, any other such information as might be necessary to identify the applicant.
 - 2) A certification from the agency in the applicant's home state of licensure/certification, certifying that the applicant is a duly licensed/certified real estate appraiser in good standing; and, setting forth any discipline taken (or pending) by the agency against the applicant.
 - 3) An estimate of the amount of time required to perform the appraisal assignments(s) and a description of the property or properties to be appraised by the applicant.
 - 4) An irrevocable consent that service of process in any action against the applicant that may arise from the applicant's Illinois appraisal activities may be made by delivery of process on the Illinois Appraisal Administrator.
 - 5) Such other information as may be necessary to determine the applicant's eligibility for temporary appraisal privileges within the State of Illinois.
- b) Limitations and requirements for temporary appraisal practice are as follows:
 - 1) The temporary practice permit shall be for a period of 60 days from the date of issuance. The permit may not be renewed but may be extended for 30 days upon written request and payment of an extension fee, at least 14 business days prior to the expiration of the original temporary practice permit;
 - 2) Each applicant is limited to 2 temporary appraisal practice permits in any calendar year;
 - 3) Persons granted temporary appraisal practice permits shall not advertise, solicit or otherwise represent themselves as State Licensed Real Estate Appraisers, Certified Residential Real Estate Appraisers or Certified General Real Estate Appraisers; and
 - 4) Applicants will be required to pay any fee required by the federal government under Title XI of the Federal Institutions Reform, Recovery and Enforcement Act of 1989.

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Section 1455.80 Upgrade and Downgrade of Appraiser License/Certification

The three categories of appraiser licensure under Article 2 of the Act are ranked according to the level of education and experience required to qualify for each respective license or certificate. The categories of licensure are ranked, in order from the least amount of education and experience required to the highest amount of education and experience required, as follows: State Licensed Real Estate Appraiser, State Certified Residential Real Estate Appraiser, and State Certified General Real Estate Appraiser.

A State Licensed Real Estate Appraiser, State Certified Residential Real Estate Appraiser, or State Certified General Real Estate Appraiser may apply to upgrade or downgrade his or her license to a higher or lower rank by filing the appropriate application, meeting all license requirements, and paying all fees in effect at the time of application for the higher or lower rank.

a) Upon the issuance to an appraiser of a license at a higher or lower rank, the term of the appraiser's previously active license, pursuant to Section 36.12 of the Act, shall end.

b) Any actions by the Office of Banks and Real Estate relating to allegations, complaints, investigations, prosecutions, discipline, supervision, or sanctions pursuant to the Act or this Part that apply to an individual holding an appraiser license shall continue to apply to the individual no matter what rank of appraiser licensure the individual has held, is holding, or may hold in the future.

SUBPART B: EDUCATION PROVIDERS

Section 1455.200 Approval of Education Providers/Courses

a) An entity seeking approval as an appraisal education provider shall submit an application, on forms provided by the Office (OBRE), and shall meet the following minimum criteria:

- 1) The provider shall:
 - A) Maintain a fixed office that is adequate for the maintenance of all records, office equipment, files, telephone equipment and office space necessary for customer service;
 - B) Offer a minimum of one curriculum that conforms to the standards of subsections (c) and (d) of this Section;
 - C) Administer a mandatory final examination for each pre-license course offering;
 - D) Provide each student within 21 days of completion of each course (or within 21 days of a request by a student or OBRE), a certification of completion, transcript or other document verifying hours of attendance, successful course completion and identifying the course by name and number, if any. In addition, such certificate, transcript or other document shall indicate the provider's address and telephone number, the location and date of the course, and include an authorized signature of the course provider's

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representative. Documentation for CE courses may be in the form of a Uniform Request for Continuing Education, which is a form supplied by national appraisal organizations;

E) Submit the fee(s) set forth in Section 1455.305;

F) Comply with all applicable fire, building, zoning, health, safety and accessibility codes and standards pertaining to the premises, equipment and facilities of the course site;

G) Provide the student with information which specifies the course of study to be offered; the tuition to be charged; the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship; any additional fee to be charged for supplies, materials or books which become the property of the student upon payment; and such other matters as are material to the relationship between the school and the student (e.g., cost of retaking a course, current status of licensure, any disciplinary action taken by OBRE and attendance requirements);

H) Maintain for each student a record which shall include the course of instruction undertaken, dates of attendance, and areas of study completed satisfactorily. Each student's record shall be maintained by the school for a period of at least 7 years and shall be available for inspection by the student or by OBRE or its designee during regular business hours; and

I) Employ competent instructors.

i) Beginning December 31, 1993, instructors for courses in the IL IV and IL V curricula shall be Certified General Real Estate Appraisers or full time faculty members of a 4-year college or university.

ii) Beginning December 31, 1993, instructors for courses in the IL I, IL II and IL III curricula shall be Certified Residential or Certified General Real Estate Appraisers or full time faculty members of a 4-year college or university.

iii) For CE courses and courses in the IL E curriculum, instructors should be Certified Residential or General Real Estate Appraisers or persons with education and/or experience in appraisal or the subject matter of the course.

2) Approved course providers shall not advertise as being endorsed, recommended or accredited by OBRE. Course providers may indicate that the provider and course of study have been approved by OBRE.

3) Illinois Colleges, Universities, and Agencies

A) Colleges and universities which apply as appraisal education providers under subsection (a)(1) above shall be accredited by the regional accrediting body and offer either or both an associate's and baccalaureate degree program.

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- B) Illinois Colleges and universities will not be required to pay the application fees required by Section 1455.305.
- C) Agencies under the jurisdiction of the Governor of the State of Illinois will not be required to pay the application fees required for education providers by Section 1455.305.
- b) Appraisal Education Sub-Providers
- 1) Sub-organizations (such as chapters, branch schools and local associations) may seek CE course approval (licensure) under the appraisal education provider's license of the parent organization. Such sub-providers may not seek approval for pre-licensure appraisal courses. Sub-providers may offer pre-licensure courses as a co-sponsor with the parent provider.
 - 2) Sub-organizations need not apply to OBRE to become an approved CE course provider but may seek course approval under the providership of the parent organization.
 - A) A sub-provider need not comply with (A), (C), (D) or (H) of subsection (a)(1) of this Section.
 - B) The license of the parent organization may not be jeopardized or disciplined as a result of the actions of the sub-provider.
 - 3) The appraisal education sub-provider, on each application for CE course approval, must certify:
 - A) The sub-organization has reviewed the CE course and approves the course content;
 - B) The sub-organization is an authorized affiliate of the parent organization;
 - C) The parent organization has given the sub-organization permission to seek course approval (licensure) under the umbrella of the parent organization's provider's license; or, that the parent organization will recognize the course for CE credit within its own CE program.
 - 4) Each CE course sub-provider shall issue to each registered student a certificate of attendance that shall indicate the student's name, social security number or appraiser license/certification number, the date(s) and location of the course, the signature of an authorized representative of the sub-provider and a statement that the student did or did not attend a minimum of 90% of the course. A certificate of attendance may be in the form of a course attendance diploma, a certification letter, an official transcript or a "Uniform Request for Continuing Education Credit".
 - 5) Within twenty-one (21) days after completion of each CE course presentation, the sub-provider shall certify to OBRE a roster of all duly registered students. The certification shall be on forms provided by OBRE and shall include:
 - A) The CE course license number;
 - B) The license number of the parent provider;
 - C) The date(s) and location of the CE presentation;

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- D) The name of the instructor(s);
- E) A listing of students by full name, appraiser license/certification number (or social security number) and an indication that the student did or did not attend a minimum of 90% of the course (the names shall be listed in alphabetical order); and
- F) The authorized signature of a representative of the sub-organization.
- c) Required Pre-License/Certification Course Curriculum
- 1) Standards of Professional Appraisal Practice--15 hours (IL I). This course curriculum reviews USPAP adopted by the Appraisal Subcommittee. Topics are:
 - A) Ethics Provision - USPAP
 - B) Competency Provision - USPAP
 - C) Departure Provision - USPAP
 - D) Standard 1 - USPAP
 - E) Standard 2 - USPAP
 - F) Standard 3 - USPAP
 - G) Standard 4 - USPAP
 - H) Standard 5 - USPAP
 - I) Standard 6 - USPAP
 - 2) Basic Principles of Appraisal--30 hours (IL II). This course curriculum shall include an overview of the appraisal process covering the principles of market and valuation analysis necessary for appraising real property and an introduction to appraisal theory, concepts, techniques and the level of competence required to perform professional appraisal analyses. Topics are:
 - A) Influences on Real Estate
 - B) Real Estate/Real Property/Personal Property
 - C) Real Estate Ownership
 - D) Legal Descriptions
 - E) Types of Value
 - F) Economic Principles
 - G) Real Estate Markets and Market Analysis
 - H) Money and Capital Markets
 - I) Real Estate Financing
 - J) Valuation Process
 - K) Neighborhood Data and Analysis
 - L) Site Data and Analysis
 - M) Improvement Data and Analysis
 - N) Basic Construction and Design
 - O) Highest and Best Use Analysis
 - P) Sources of Valuation Data
 - Q) Accumulation of Valuation Data
 - R) Overview of the Three Approaches to Value
 - S) Reconciliation and Final Value Estimate
 - T) Overview of the Appraisal Report

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- 3) Residential Valuation Procedures/Single Family Appraisal--30 hours (IL III). This course curriculum shall be designed to provide an understanding and working knowledge of the procedures and techniques required to estimate the market value of residential properties. Emphasis should be placed on the extraction of data and the correct application of the three approaches to real estate valuation. Topics are:

- A) Basic Statistics
 - B) Residential Site Valuation - Sales Comparison
 - C) Residential Site Valuation - Allocation
 - D) Residential Site Valuation - Extraction
 - E) Cost Approach - Cost New Estimates
 - F) Cost Approach - Entrepreneurial Profit
 - G) Cost Approach - Types of Depreciation
 - H) Cost Approach - Depreciation - Age-Life Method
 - I) Cost Approach - Depreciation - Market Extraction Method
 - J) Cost Approach - Depreciation - Breakdown Method
 - K) Cost Approach - Application
 - L) Sales Comparison Approach - Units of Comparison
 - M) Sales Comparison Approach - Elements of Comparison
 - N) Sales Comparison Approach - Cash Equivalency
 - O) Sales Comparison Approach - Making Adjustments
 - P) Sales Comparison Approach - Application
 - Q) Income Capitalization Approach - Gross Rent Estimates
 - R) Income Capitalization Approach - Gross Rent Multiplier
 - S) Income Capitalization Approach - Application
 - T) Residential Appraisal Reports
- 4) Valuation Procedures, Nonresidential Properties--30 hours (IL IV). This course curriculum focuses on the appraisal of nonresidential properties and provides a practical solution for estimating value by an in-depth study of appraisal theory and the development of advanced valuation skills. Topics are:
- A) Basic Statistics
 - B) Site Valuation - Sales Comparison
 - C) Site Valuation - Allocation/Extraction
 - D) Site Valuation - Subdivision Analysis/Other Methods
 - E) Cost Approach - Cost New Estimates
 - F) Cost Approach - Entrepreneurial Profit
 - G) Cost Approach - Types of Depreciation
 - H) Cost Approach - Depreciation - Age-Life Method
 - I) Cost Approach - Depreciation - Market Extraction Method
 - J) Cost Approach - Depreciation - Breakdown Method
 - K) Cost Approach - Application
 - L) Sales Comparison Approach - Units of Comparison
 - M) Sales Comparison Approach - Elements of Comparison
 - N) Sales Comparison Approach - Cash Equivalency
 - O) Sales Comparison Approach - Making Adjustments
 - P) Sales Comparison Approach - Application

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- Q) Income Approach - Income Estimates
 - R) Income Approach - Expense Estimates
 - S) Income Approach - Capitalization Rates
 - T) Income Approach - Direct Capitalization
 - U) Income Approach - Income Multipliers
 - V) Income Approach - Application
 - W) Appraisal Reports
- 5) Income Capitalization--30 hours (IL V). Courses in this curriculum are to provide alternative methods of estimating present value based on income forecasts. These courses focus on more advanced capitalization methods and techniques. Topics include:

- A) Six Functions of \$1
- B) Gross Income Estimates
- C) Vacancy and Collection Loss
- D) Operating Expense Estimates
- E) Reserves for Replacement
- F) Operating Statement Ratios and Multipliers
- G) Debt Service/Equity Dividend
- H) Direct Capitalization
- I) Overall Rate Development - Market Extraction
- J) Overall Rate Development - Band of Investment
- K) Overall Rate Development - Ratios/Multipliers
- L) Overall Rate Development - Residual Techniques
- M) Equity Dividend Rate
- N) Debt Coverage Ratio
- O) Cash Flow Estimates
- P) Reversion Estimates
- Q) Discount and Yield Rates
- R) Yield Capitalization Overview
- S) Discounted Cash Flow Analysis Overview
- T) Lease Provisions, Analysis and Valuation
- U) Lease Analysis
- V) Partial Interest Valuation

- 6) Courses in the IL E curriculum (electives) are courses with topics that are considered more advanced; and/or cover appraisal topics not covered in the core course curricula. Credit for elective hours can be achieved by successful completion of courses approved in the IL E curriculum or by successful completion of courses with excess hours approved and allocated for elective credit in accordance with subsection (c)(9) of this Section.

- 7) Each pre-license/certification course shall be a minimum of 15 credit hours.

- 8) All pre-license/certification courses shall include a final examination.

- A) Each final exam for curricula IL II, IL III, IL IV, IL V and IL E (elective) courses shall consist of a minimum of 50

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questions; however, courses approved for 15 hours credit may have a final examination with 25 questions.

- B) The final exam for IL I courses shall consist of a minimum of 25 questions.
- C) The applicant shall pass the examination in order to obtain credit for a course. A passing score shall be a minimum of 70% of examination questions answered correctly.
- 9) If 80% of the required topics for IL II through IL V courses are presented, the course shall be approved for the minimum required hours. Two 15 hour courses from a single provider may be approved to meet a 30 hour curriculum requirement, provided the courses together cover a minimum of 80% of the required curriculum topics. An application for one 15 hour course in a curriculum requiring 30 hours will be denied. For courses in the IL I curriculum 100% of the listed topics must be covered. IL E courses will be approved based upon the Committee's review of the course as to the value of topics to be presented and their relationship to the appraisal process.

A) Classroom hours in excess of the curriculum requirement may be approved for elective credit. Such approval is limited to 9 excess hours for courses in a 30 hour curriculum requirement and 5 excess hours for courses in a 15 hour curriculum requirement;

B) Excess hours may be approved, within the above limits based upon the Committee's evaluation of the appraisal educational value of the excess hours.

10) All changes in course content shall be submitted to OBRE for review and evaluation.

11) The license for all pre-license/certification courses shall expire 36 months from the date of issue. An approved provider may renew the course approval by completing a renewal application and paying the renewal fee, in accordance with Sections 1455.300 and 1455.305 of this Part.

d) CE Course Requirement

1) Courses licensed by OBRE for pre-license/certification appraiser education are approved for CE credit. The renewal applicant will be awarded credit for attendance at these courses provided the license for the course was valid and in good standing at the time of attendance; and provided the course is not repetitious as indicated by Section 1455.205. CE credit for pre-license/certification education will be awarded as 15 hours for 15 hour courses and 20 hours for 30 (or more) hour courses.

2) CE courses shall be approved by the Director, upon the recommendation of the Committee, for courses with or without a final examination.

3) The application for each course approval shall include a description of the course, a course (or instructor's) outline that shall list the time frame for topic presentation, the number

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of classroom instruction hours excluding examination, the time allotted for examination (if any), the specific course name as it will appear on transcripts or course certifications, a sample of the certificate, the transcript or other documentation that will be used to document the student's attendance and any other information that may be required by OBRE.

A) An applicant may be required to submit texts and all other course materials for evaluation by the Appraisal Committee.

B) The application for CE courses being offered by a sub-provider shall also include a certification in accordance with subsection (b)(3) of this Section.

4) The Committee/Director shall approve courses that would contribute to the integrity, extension and enhancement of professional skills and knowledge in the practice of Real Estate Appraisal. Courses submitted for approval should be designed to cover at least one of the following topics:

- A) Ad Valorem Taxation
- B) Arbitration
- C) Business Courses (related to practice of real estate appraisal)
- D) Construction Cost Estimating
- E) Ethics and Standards of Professional Practice
- F) Illinois Appraiser Licensing Laws and/or Rules
- G) Land Use, Planning, and Zoning
- H) Property Development
- I) Real Estate Appraisal (valuation/evaluation)
- J) Real Estate Management, Leasing, Brokerage, Timeshare
- K) Real Estate Law
- L) Real Estate Litigation
- M) Real Estate Finance or Investment
- N) Appraisal Computer Applications
- O) Real Estate Securities and Syndications
- P) Real Property Exchange

Q) Other topics deemed appropriate by the Committee/Director

5) The Committee/Director shall not approve:

- A) Motivation courses or seminars
- B) Courses that focus instruction to increase appraiser income
- C) Courses or seminars that focus on the recruitment of employees or clients
- D) Courses or seminars with instructional material relative to associations
- E) Courses or seminars with instructional material relative to passing the State's appraiser examination
- F) Having less than three classroom hours of instruction exclusive of examination (if any)
- G) A course for more than 20 hours CE credit
- 6) Subsequent to approval of any CE course, revisions in course content and/or course material shall be submitted for

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re-evaluation and re-approval. Failure to report course changes may result in revocation of the CE course license. The fee for re-approval shall be in accordance with Section 1455.305.

- 7) Approval (license) for CE courses shall expire on March 31 of even numbered years until March 31, 1998. Beginning April 1, 1998, approval (license) for CE courses shall expire on September 30 of odd numbered years. The provider or sub-provider may renew the approval (license) by completing a renewal application and paying the renewal fee, in accordance with Sections 1455.300 and 1455.305 of this Part. The approval (license) fee or renewal fee for CE courses expiring on September 30, 1999 shall be 18/24ths of the approval (license) fee or renewal fee as provided in Section 1455.305 of this Part.

e) Audits and Inspections. OBRE may conduct on site inspections of the course provider's (or sub-provider's) place of business and may audit any session of any course approved for pre-license or CE credit.

- 1) At the request of the Director, a course provider shall provide a list of all courses that the provider is planning to offer within a 6 month period subsequent to the request. The list shall include the name and license number of each course, as well as the date, time and location of each presentation.
- 2) In the event of a course audit, the provider shall provide OBRE representative, at no cost, any and all course materials used in the presentation of the course being audited.
- 3) The Director, a member of the Director's staff, an Appraisal committee member or other designated OBRE employee may inspect the business office of any course provider (or sub-provider) during normal business hours.

f) Withdrawal of Approval

- 1) OBRE, upon recommendation of the Real Estate Appraisal Committee, shall withdraw, suspend or place on probation in accordance with 68 Ill. Adm. Code 1110 the approval of the real estate appraiser education provider when the quality of the program fails to continue to meet the established criteria of an approved provider as set out in this Section or upon determination that the decision to approve the program was based upon false or deceptive information.
- 2) The provider's license will terminate immediately upon the failure to renew. Course licenses will terminate upon the expiration date or immediately upon the termination of the provider's license. The provider may thereafter reapply for approval as an appraiser education provider and for course approval. (Source: Amended at 21 Ill. Reg. 1685, effective January 27, 1997)

Section 1455.205 Appraiser Continuing Education (CE)

- a) State Licensed, Certified Residential or Certified General Real Estate

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Appraisers shall obtain, during the pre-renewal period, a minimum of 20 hours of continuing education (CE) by attending Office (OBRE) licensed CE appraiser courses or OBRE approved pre-licensing appraiser courses.

- 1) Only one-time credit will be awarded for repetitious course work (i.e., credit will be given only once for a course attended more than once during the same pre-renewal period).
- 2) A minimum of 7 hours of continuing education pertaining to USPAP shall be completed during 3 pre-renewal periods.
- 3) A pre-renewal period is the 24 months preceding September 30 in the year or the renewal; except for the first pre-renewal period which shall be June 1, 1993, through September 30, 1995.
- 4) CE credit will be awarded to appraisers attending a course with an examination, even through the appraiser did not participate in the examination or did not successfully complete the examination.
- 5) An applicant for renewal is not required to meet CE requirements for a license or certification issued less than 24 months prior to its expiration.
- 6) Real estate appraisers licensed or certified in Illinois but residing in another state or jurisdiction shall comply with the CE requirements set forth in this Section.
- 7) In lieu of meeting the CE requirement by attending OBRE approved courses, all or any part of the CE requirement may be satisfied by:

A) Teaching courses approved by the Committee/OBRE for CE credit. The instructor will be awarded CE credit for the number of hours for which the course is approved for CE.

- i) CE credit will be awarded only once for a course.

Credit is only applicable to the renewal following the pre-renewal period in which the course was taught.

- ii) Upon audit, the renewal applicant must provide course documentation from the course provider indicating the course name, Illinois license number, dates and location that the applicant served as an instructor, or any other documentation requested by OBRE in the course of the audit.

B) Participating in the development of a course(s) approved by OBRE upon recommendation of the Committee for CE credit.

- i) CE credit will be awarded only once for development of a course. Credit is only applicable to the renewal following the pre-renewal period in which the course was developed.

- ii) Upon audit, an applicant shall provide proof of participation in the development of a course. Proof shall be in the form of certification from the course provider as to the course name and the degree of the applicant's participation in development, or any other documentation requested by OBRE in the course of the

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audit.

- b) Certification of Compliance with CE Requirements
 - 1) With application for renewal (of any appraiser license/certification, issued 24 months or more prior to its expiration), the applicant shall certify full compliance with the CE requirements set forth in subsection (a) of this Section. The certification shall be on forms provided by OBRE that will include spaces for listing course names, the dates of attendance, the classroom hours, the provider's name, the Illinois CE course license number or any other information which OBRE requests. In addition, the certification shall contain a statement that the renewal applicant was in attendance for a minimum of 90% of the course and the he/she understands discipline consequences of providing false CE information. The renewal application may require other information to be provided by the applicant to enable proper administration of Article 2 of the Act.
 - 2) The license/certification of an applicant not submitting a CE certification of full CE compliance will not be renewed.
- c) Audits and Inspections
 - 1) OBRE may audit CE certifications received from renewal applicants.
 - 2) OBRE will conduct random audits of certifications submitted by appraiser applicants. When audited, the applicant shall submit documentation of attendance at CE courses such as certification letters, transcripts and Uniform Request for Continuing Education Credit, from the course provider (or sub-provider) or any other documentation requested by OBRE. Such documentation shall be submitted within 30 days of OBRE's request.

Section 1455.210 Fees - Education Providers/Courses (Repealed)

SUBPART C: GENERAL

Section 1455.300 Renewals

- a) Every license or certificate issued under the Act as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser shall expire on September 30 of each odd-numbered year, except as provided in Section 1455.80(a). The holder of a license or certification may renew the license or certification during the month preceding the expiration date by paying the required fee specified in Section 1455.305 of this Part.
 - 1) In order to renew a license or certification in 1995, and thereafter, an applicant will be required to comply with the continuing education requirements pursuant to Section 36.17 of the Act and Section 1455.205 of this Part.
 - 2) A license with the title of State Licensed Real Estate Appraiser may be renewed by providing evidence of completion of experience

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- as required by Section 1455.20(b), evidence of 20 hours CE course work and payment of renewal fees set forth in Section 1455.305 of this Part. For a license expired between 2 years and 3 years, a renewal applicant shall complete the 20 hours of CE after the expiration date on the license.
- 3) An expired license for Certified Residential or General Real Estate Appraiser may be renewed by payment of renewal fees set forth in Section 1455.305 of this Part and evidence of completion of 20 hours of CE coursework. For a license expired between 2 years and 3 years, a renewal applicant shall complete 20 hours of CE after the expiration date on the license.
 - 4) A license or certificate for State Licensed, Certified Residential or Certified General Real Estate Appraiser expired for more than 3 years will not be renewed. The appraiser may reapply for license or certification by meeting the licensure or certification requirements in effect at the time of application and by passing the appropriate State Appraiser Examination.
 - 5) The holder of a license or certificate for State Licensed, Certified Residential or Certified General Appraiser that is expired for a period of less than 3 years may renew the license or certificate in accordance with the provisions of this Section. Licensees may not reapply for licensure or certification in the same appraiser category until the certificate has been expired for 3 years.
 - b) Approved real estate appraiser education providers shall renew December 31 each year by paying the required fee set forth in Section 1455.305 of this Part. An appraiser education provider's license that has expired for more than 60 days may not be renewed. The provider may reapply for licensure in accordance with Section 1455.200.
 - c) Approved pre-license/certification courses will expire 3 years from the date of issue, or upon the expiration of the provider license (for which the course license is subordinate), and may be renewed by renewal application and payment of fees, in accordance with Sections 1455.200 and 1455.305, 60 days prior to expiration.
 - 1) The renewal application shall include a confirmation of the provider's original certification and a certification that the course is essentially the same course as previously approved. In addition to the application, the applicant must explain any course revisions in detail, submit a listing of texts and other materials used in the course as well as the current final examination, and submit the current course outline, which shall contain a time schedule for topic presentation.
 - 2) Applications received 366 days or more after the expiration date shall not be renewed. The applicant may submit a new application for approval of the pre-license/certification course under a different course title.
 - d) Approved appraisal CE courses will expire on March 31 of even numbered

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years until March 31, 1998 and may be renewed by renewal application and payment of fees, in accordance with Sections 1455.200 and 1455.305, 60 days prior to expiration. Beginning April 1, 1998, approved appraisal CE courses will expire on September 30 of odd numbered years and may be renewed by renewal application and payment of fees, in accordance with Sections 1455.200 and 1455.305, 60 days prior to expiration.

- 1) The renewal application shall include a confirmation of the provider's original certification and a certification that the course is essentially the same course as previously approved. In addition to the application, the applicant must explain any course revisions in detail, submit a listing of texts and other materials used in the course, and submit the current course outline, which shall contain a time schedule for topic presentation.
- 2) Any application for CE course renewal received 366 days or more after the expiration date shall not be renewed. The applicant may submit a new application for approval of the course under a different course title.
- 3) A course meeting the requirements of a pre-license/certification course as set forth in Section 1455.200(c)(1) through (5) will be denied licensure as a CE course; however, such course may be approved by application for approval as a pre-license/certification course and payment of the appropriate fee.
- e) It is the responsibility of each individual holding certification or licensure to notify the Office (OBRE) of any change of address. Failure to receive a renewal form from OBRE shall not constitute an excuse for failure to pay the renewal fee and to renew the certification in a timely manner.
- f) A certificate for State Licensed Real Estate Appraiser will not be renewed until OBRE has received documentation of 500 hours of experience in accordance with Section 1455.20(b). To expedite processing, the documentation may be submitted with the original application for licensure or as soon as the experience is met; otherwise, it shall be submitted with the renewal application.

Section 1455.305 Fees**a) Appraiser Application Fees**

- 1) The application fee for licensure as a State licensed real estate appraiser (whether by examination, examination acceptance, or reciprocity) is \$175, effective December 1, 1995.
- 2) The application fee for licensure as a Certified General or Certified Residential Real Estate Appraiser (whether by examination, examination acceptance, or reciprocity) is \$175, effective December 1, 1995.
- 3) The initial registry fee for original permanent

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licensure/certification as an appraiser is \$75, effective December 1, 1995.

- 4) The fee for each temporary practice permit, in accordance with Section 1455.70, is \$100, effective December 1, 1995.
- 5) The fee for extension of a temporary practice permit, in accordance with Section 1455.70, is \$100, effective December 1, 1995.

b) Appraiser Renewal Fees

- 1) The fee for renewal of an active appraiser license or certification is \$450, effective December 1, 1995.
- 2) The fee for renewing an expired license or certification is \$550, effective December 1, 1995.

c) Application/Renewal Fees for Appraiser Education Providers

- 1) The fee for application as a real estate appraiser education provider shall be \$1000, plus necessary course approval fees as set forth in subsection (d) below.
- 2) The fee for renewal as an approved real estate appraiser education provider shall be \$500 per year.
- 3) The fee to renew an appraiser education provider license that has been expired for less than 61 days shall be \$600.

d) Application/Renewal Fees for Pre-license/Certification and CE Course Approval

- 1) The application fee for approval of a pre-license/certification appraisal course shall be \$500.
 - A) The fee for renewal of a pre-license/certification appraisal course shall be \$250.
 - B) The fee for renewal of a pre-license/certification appraisal course that has been expired for less than 366 days shall be \$350.
- 2) The application fee for CE course approval shall be \$300.
 - A) The fee for renewal of an approved CE course shall be \$150.
 - B) The renewal fee for an approved CE course that has been expired for less than 366 days shall be \$250.
- 3) The fee for evaluation of revisions to approved courses shall be \$200 for pre-license/certification courses and \$75 for CE courses.

e) General

- 1) All fees paid pursuant to the Act and this Section are non-refundable.
- 2) Applicants for examination and reexamination for appraisal certification and licensing shall pay a fee covering the cost of providing such examination. If a designated testing service is utilized for the examination, such fee shall be paid directly to the designated testing service.
- 3) The fee for certification of a registrant's record (e.g., license status, examination information, discipline, etc.) is \$25. There is no fee for license/certification verification.
- 4) There is no fee for issuance of a duplicate license or certification or
- 5) The fee for issuance of a duplicate license or certification or

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- replacement of a lost license or certification is \$25.
- 6) The fee for a license or certification with name and/or address change (other than name and/or address change at renewal) is \$25.
 - 7) The fee for a decorative wall certificate is the actual cost of the certificate which shall include shipping and handling costs.
 - 8) The fee for a roster of persons licensed under the Act is the cost of producing the roster including shipping and handling costs.
 - 9) The fee for requesting a waiver of the real estate appraiser experience requirement pursuant to Section 36.11 of the Act shall be \$25.
 - 10) The fee for furnishing a record of proceedings under Section 36.20 of the Act is \$1 per page of the record.
 - 11) National Registry fees payable to the Appraisal Subcommittee pursuant to federal regulations and laws shall be paid by Office the (OBRE) from funds appropriated by the General Assembly from the Appraisal Administration Fund.

Section 1455.310 Granting Variances

- a) The Commissioner may grant variances from these rules in individual cases where:
 - 1) The provision from which the variance is granted is not statutorily mandated;
 - 2) No party will be injured by the granting of the variance; and
 - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Commissioner shall notify the Real Estate Appraisal Committee in writing of the granting of a variance, and the reasons therefor.

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NOTICE OF PROPOSED RULES

Heading of the Part: Real Estate Appraiser Certification

2) **Code Citation:** 68 Ill. Adm. Code 1455

3) **Section Numbers:** **Proposed Action:**

1455.10	New Section
1455.20	New Section
1455.30	New Section
1455.40	New Section
1455.50	New Section
1455.60	New Section
1455.70	New Section
1455.80	New Section
1455.90	New Section
1455.100	New Section
1455.110	New Section
1455.120	New Section
1455.130	New Section
1455.200	New Section
1455.210	New Section
1455.220	New Section
1455.230	New Section
1455.300	New Section
1455.310	New Section
1455.320	New Section
1455.400	New Section
1455.410	New Section
1455.420	New Section
1455.430	New Section
1455.440	New Section
1455.450	New Section
1455.460	New Section
1455.470	New Section
1455.480	New Section
1455.490	New Section
1455.500	New Section
1455.510	New Section
1455.520	New Section
1455.530	New Section
1455.540	New Section
1455.550	New Section
1455.560	New Section
1455.570	New Section
1455.580	New Section
1455.590	New Section
1455.600	New Section
1455.610	New Section
1455.620	New Section

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1455.Appendix A
1455.Appendix B

New Section
New Section

4) Statutory Authority: P.A. 90-571, effective July 1, 1998

5) A. Complete Description of the Subjects and Issues Involved: The rulemaking implements the regulation of the real estate appraisal profession required by the Real Estate Appraiser Licensing Act, P.A. 90-571, effective July 1, 1998, consistent with the provisions of Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989; Title VIII of the Civil Rights Act of 1968 (Fair Housing Act); and the Illinois Human Rights Act.

6) Will this rulemaking replace any emergency rulemakings currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Bill Brown
Office of Banks and Real Estate
500 East Monroe, Suite 900
Springfield IL 62701
(217) 782-3000

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Appraisers entities and continuing education courses meeting the "small business" definition set out in the IAPA.

B) Reporting, bookkeeping or other procedures required for compliance: Initial application (see Section 1455.60), renewal application (see Section 1455.110), course materials and certificate record maintenance (see Section 1455.200).

C) Types of professional skills necessary for compliance: Minimal recordkeeping and word processing skills.

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13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Rules begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATE

PART 1455

REAL ESTATE APPRAISER CERTIFICATION

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1455.20	Uniform Standards of Professional Appraisal Practice/Supplemental Standards/Jurisdictional Exceptions
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1455.40	Education Requirements for State Certified Residential and State Certified General Real Estate Appraiser
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1455.300	Appraiser Enforcement Procedures
1455.310	Informal Conferences
1455.320	Settlements

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CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATE

PART 1455

REAL ESTATE APPRAISER CERTIFICATION

SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

Section	
1455.400	Applicability
1455.410	Institution of a Contested Case by the Agency
1455.420	Institution of a Contested Case by Petitioner
1455.430	Parties to Hearings
1455.440	Joinder
1455.450	Form of Papers
1455.460	Service
1455.470	Notice
1455.480	Representation
1455.490	Failure to Appear
1455.500	Amendment, Withdrawal of Complaints and Petitions for Hearing
1455.510	Requirement of an Answer
1455.520	Discovery
1455.530	Subpoenas
1455.540	Prehearing Conference
1455.550	Hearings
1455.560	Administrative Law Judges
1455.570	Disqualification of an Administrative Law Judge
1455.580	Examination by the Board
1455.590	Burden of Proof
1455.600	Motions
1455.610	Continuances
1455.620	Evidence
APPENDIX A	Caption for a Case Filed by the Agency
APPENDIX B	Caption for a Case Filed by the Petitioner

AUTHORITY: Implementing and authorized by the Real Estate Appraiser Licensing Act [P.A. 90-571, effective July 1, 1998].

SOURCE: Emergency rules adopted at 16 Ill. Reg. 16196, effective September 30, 1992, for a maximum of 150 days; rules adopted at 17 Ill. Reg. 1589, effective January 26, 1993; emergency amendment at 17 Ill. Reg. 6668, effective April 19, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13494, effective July 30, 1993; amended at 18 Ill. Reg. 2379, effective January 28, 1994; emergency amendment at 18 Ill. Reg. 3006, effective February 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8428, effective May 24, 1994; amended at 19 Ill. Reg. 9176, effective June 26, 1995; emergency amendment at 19 Ill. Reg. 12503, effective August 16, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16604, effective December 1, 1995; amended at 20 Ill. Reg. 6488, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 1685, effective January 27, 1997; amended at 21 Ill. Reg. 5538, effective April 18, 1997; emergency amendment at 22 Ill. Reg. 4132, effective February 4, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998, for a maximum of 150 days; Old Part repealed by emergency rulemaking at 22 Ill. Reg. 12979, effective July 1, 1998,

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for a maximum of 150 days; new Part adopted by emergency rulemaking at 22 Ill. Reg. 13011, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. _____, effective _____.

SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

Section 1455.10 Definitions

"Act" means the Real Estate Appraiser Licensing Act of 1998.

"Agency" means the Office of Banks and Real Estate.

"Appraisal" means an analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation. An appraisal may be classified by purpose into either a valuation or an analysis. A "valuation" is an estimate of the value of real estate or real property. An "analysis" is a study of real estate or real property other than estimating value.

"Appraisal Assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in or aspects of identified real estate. "Appraisal assignment" includes valuation work and analysis work.

"Appraisal Consulting" is the act or process of providing information, analysis of real estate data and recommendations or conclusions on diversified problems in real estate, other than estimating value.

"Appraiser" or "Real Estate Appraiser" means a person who performs appraisals.

"Appraiser Qualifications Board" or "AOB" is a Board of the Appraisal Foundation established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC Chapter 34A).

"Appraisal Report" or "Report" means any communication, written or oral, of an appraisal, appraisal review, or consulting service that is transmitted to a client of a licensee.

"Appraisal Standards Board" or "ASB" is a Board of the Appraisal Foundation established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

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"Appraisal Subcommittee" or "ASC" means the Federal Appraisal Subcommittee established by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"Client" is the party or parties who engage an appraiser (by employment or contract) in a specific assignment.

"Commissioner" means the Commissioner of Banks and Real Estate.

"Conference Panel" is one or two members of the Board and the Director, or his/her designee, who convene in an informal conference with a Respondent who has written allegations filed against him/her, where Respondent may speak on his/her own behalf regarding allegations that have been charged against his/her appraiser license, which may result in a recommendation of an offer of settlement of the charges.

"Director" means the Director of the Real Estate Appraisal Administration Division of the Office of Banks and Real Estate.

"Division" means the Real Estate Appraisal Administration Division of the Office of Banks and Real Estate.

"Exam Acceptance" means the acceptance of an Appraiser Qualifications Board approved examination successfully completed in another state or jurisdiction and accepted as fulfilling the applicant's examination requirement in this State.

"Executive Conference" is a meeting between the Director and a Respondent who has written allegations filed against him/her, where Respondent may speak on his/her own behalf regarding allegations that have been charged against his/her appraiser license, which may result in a recommendation of an offer of settlement of the charges.

"Federal Financial Institutions Regulatory Agencies (FFIRA)" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision and the National Credit Union Administration.

"Federally Related Transaction" means any real estate related financial transaction that requires a licensed or certified real estate appraiser under federal law or regulation.

"Financial Institution" means a bank, savings bank, savings and loan association, credit union, mortgage broker, mortgage banker, licensee under the Consumer Installment Loan Act [205 ILCS 670] or the Sales Finance Agency Act [205 ILCS 660], or a corporate fiduciary, subsidiary, affiliate, parent company, or holding company of any such

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licensee.

"Hearings" means any hearings authorized to be held in the Division or before its Board or the Commissioner by the Real Estate Appraiser Licensing Act.

"Informal Conference" is a meeting among one or two members of the Board and the Director, or his/her designee, and a Respondent who has written allegations filed against him/her, where Respondent may speak on his/her own behalf regarding allegations that have been charged against his/her appraiser license, which may result in a recommendation of an offer of settlement of the charges.

"Informational Conference" is a meeting between the Director, or his/her designee, and a registrant with allegations filed against him/her, where the Director, or his/her designee, may question the Respondent in search of information and facts relative to the allegations.

"Mass Appraisal" is defined as the process of valuing a universe of properties as of a given date, utilizing standard methodology, employing common data and allowing for statistical testing and developed and reported in compliance with the USPAP Provisions and Standard 6.

"OBRE" or "Office" means the Office of Banks and Real Estate.

"Petitioner" is a party who by written petition or application seeks relief or licensure under any provision of applicable statutes of the State of Illinois or any rule, regulation, order or determination of the Division or Agency related to the Real Estate Appraisal profession.

"Pre-Renewal Period" is the time period between October 1 of any odd numbered year and September 30 of the subsequent odd numbered year. The pre-renewal period, for expired licenses, extends past September 30 of an odd numbered year to the date of application for renewal; however, the pre-renewal period may not extend past September 30 of the subsequent even numbered year.

"Rank" means the ranks of appraiser licensure: State Licensed, Certified Residential and Certified General.

"Real Estate" means an identified parcel or tract of land, including improvements, if any.

"Real Estate Appraisal Board" or "Board" means the Real Estate Appraisal Board established in the Act.

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"Real Estate Related Financial Transaction" means any transaction involving: the sale, lease, purchase, investment in property or exchange of real property, or the financing of the real property; the refinancing of real property or interests in real property; or the use of real property or interests in property as security for a loan or investment, including but not limited to mortgage-backed securities.

"Real Property" means the interests, benefits and rights inherent in the ownership of real estate.

"Reciprocity" is acceptance of experience and educational qualifications for licensure in this State that have been accepted as the basis for licensure in a registrant's domicile state or jurisdiction. Licensure by reciprocity is only applicable when a reciprocity agreement exists between this State and another appraiser regulation jurisdiction.

"Registrant" or "Registered" refers to all ranks of appraisers registered with OBRE.

"Respondent" is a person, firm, association or corporation against whom a complaint or petition is filed or to whom an order or complaint is directed by the Agency initiating a proceeding.

"State Certified Residential Real Estate Appraiser" or "Certified Residential" means a real estate appraiser who holds: a license issued for that rank under Article 2 of the Real Estate License Act of 1983 before the effective date of the Act, a license issued under the Act upon application for examination received by OBRE before the effective date of the Act but issued after that date, or a license issued for that rank under the Act.

"State Certified General Real Estate Appraiser" or "Certified General" means a real estate appraiser who holds: a license issued for that rank under Article 2 of the Real Estate License Act of 1983 before the effective date of the Act, a license issued under the Act upon application for examination received by OBRE before the effective date of the Act but issued after that date, or a license issued for that rank under the Act.

"State Licensed Real Estate Appraiser" or "State Licensed" means a real estate appraiser who holds: an active license issued for that rank under Article 2 of the Real Estate License Act of 1983 before the effective date of the Act, a license issued under the Act upon application for examination received by OBRE before the effective date of the Act but issued after that date, or a license issued for that rank under the Act.

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"Uniform Standards of Professional Appraisal Practice" or "USPAP" means the Provisions and Standards of professional appraisal practice as promulgated by the Appraisal Standards Board of the Appraisal Foundation.

Section 1455.20 Uniform Standards of Professional Appraisal Practice/Supplemental Standards/Jurisdictional Exceptions

a) In addition to standards cited in Section 90 of the Act, the Uniform Standards of Professional Appraisal Practice (USPAP) as published by the Appraisal Standards Board in accordance with Section 110 of the Act, are adopted by reference.

b) Additional supplemental standards may be adopted by OBRE as recommended by the Board and, if adopted, shall become a part of this Section.

1) A registrant whose appraiser license, in any rank, is suspended by the provisions of the Act, and/or this Part, may not practice the business of real estate appraisal during the suspension period. Participation in the development and/or reporting of appraisals, appraisal reviews or appraisal consulting as a registered or nonregistered appraiser during the suspension period shall be sufficient grounds for OBRE to revoke or otherwise discipline the registrant's active or inactive license.

2) A registrant whose appraiser license, in any rank, is placed on probation under the provisions of the Act, and/or this Part, shall include in the certification of all appraisal reports a statement that "this license (number and State rank) has been placed on probation by OBRE until (date probation terminates)".

3) An appraiser registered with OBRE, under the Act, shall reject solicitation for appraisal work that suggests contingent fees. A fee for appraisal services that is increased, decreased or void based upon the closing of a loan is a form of contingent fees.

c) Real Estate Appraisers registered with OBRE under the Act shall practice in accordance with USPAP standards except:

1) where the standard(s) is contrary to Illinois Law or public policy (USPAP, Jurisdictional Exception); or

2) where supplemental standards have been recommended by the Real Estate Appraisal Board, adopted by OBRE and incorporated by rule as part of this Section. Any such supplemental standard(s) shall not diminish the purpose, intent or content of the requirements of the USPAP.

d) A copy of the USPAP is available for inspection in OBRE and may be purchased, if available, at cost from the Office of Banks and Real Estate, Division of Real Estate Appraisal Administration, 500 East Monroe Street, Suite 500, Springfield IL 62701 or from the Appraisal Standards Board, 1029 Vermont Avenue, N.W., Suite 900, Washington D.C. 20005-3517.

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Section 1455.30 Education and Experience Requirements for State Licensed Real Estate Appraiser

a) Education. An applicant for State Licensed Real Estate Appraiser shall have earned a high school diploma or its equivalent (GED) and shall have completed 75 hours of appraisal course work in three specific curricula that are mandatory.

1) The specific 3 curricula are:

- A) Standards of Professional Appraisal Practice--15 hours (IL-I);
- B) Basic Principles of Appraisal--30 hours (IL-II); and
- C) Single Family Appraisal/Residential Valuation Procedures--30 hours (IL-III).

2) Credit will be awarded only from courses licensed by OBRE and presented by course providers licensed by OBRE. Successful completion is attendance of a minimum of 90% of all classroom instruction and passing the course examination.

b) Experience. Experience credit is not required for an applicant to sit for examination or for licensure; but, 500 hours of appraisal experience is required for the first and second renewals of a license following an original issue date of 24 months or longer.

1) Documentation of the 500 hours of experience for each of the two reporting periods shall be submitted on forms provided by OBRE as described in Section 1455.60 of this Part:

A) Experience documentation supporting 500 hours or 1,000 hours may be submitted with the application for examination or at any time between the date of license issuance and the first renewal after the original license has been issued for a period of 24 months or longer.

B) If during the first reporting period the registrant did not submit documentation of 1,000 hours of experience, the second experience report shall document 500 hours of experience that was obtained from appraisal work occurring subsequent to the renewal that required the first 500 hours.

2) Only those appraisal reports that are in compliance with the USPAP Provisions and Standards are creditable as experience.

3) Real estate sales and brokerage experience shall be accepted if the experience is directly related to performing or reviewing appraisals, in compliance with the USPAP Provisions and Standards 1 and 2, or 3, or 4 and 5.

A) Salespersons and brokers who hold an active license, issued by OBRE, at the date of application for appraiser licensure, that has been active and in good standing for 5 of the preceding 7 years, will be granted 40% of the experience requirement.

B) OBRE may require a fee to verify the active and good standing status of the license.

4) Mass appraisal experience is not acceptable experience for this

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appraiser rank.

- 5) A license may be renewed based upon the applicant's certification that an appraisal log is true, accurate and contains listings of reports meeting the USPAP Provisions and Standards. If, after the renewal license is issued, it is determined, by experience audit or other investigation, that the experience is not true, accurate and/or in compliance with the USPAP Provisions and Standards, such determination shall be grounds to revoke or otherwise discipline the renewed license or up-ranks to the license.
- 6) The experience requirement may be waived (or deferred) by the Commissioner, upon recommendation of the Board, in accordance with Section 60(g) of the Act.

Section 1455.40 Education Requirements for State Certified Residential and State Certified General Real Estate Appraiser

- a) An applicant for certification as a Certified Residential or Certified General Real Estate Appraiser shall have earned a high school diploma or its equivalent (GED) and shall have completed a course of study in appraisal curricula as set forth in subsections (b), (c) and (d) of this Section.
- b) A total of 120 hours of education is required for Certified Residential Real Estate Appraiser, and 180 hours of education are required for Certified General Real Estate Appraiser.
 - 1) For Certified Residential Real Estate Appraiser, the following specific hour requirement is mandatory:
 - A) Standards of Professional Appraisal Practice--15 hours (IL-I);
 - B) Basic Principles of Appraisal--30 hours (IL-II);
 - C) Valuation Procedures for Residential Property--30 hours (IL-III);
 - D) Valuation Procedures for Nonresidential Property--30 hours (IL-IV); and
 - E) Residential Report Writing--15 hours (IL-VI).
 - 2) For Certified General Real Estate Appraiser, the following specific hour requirement is mandatory:
 - A) Standards of Professional Practice--15 hours (IL-I);
 - B) Basic Principles of Appraisal--30 hours (IL-II);
 - C) Valuation Procedures for Residential Property--30 hours (IL-III);
 - D) Valuation Procedures for Nonresidential Property--30 hours (IL-IV);
 - E) Income Capitalization Approach--30 hours (IL-V);
 - F) Non-residential Report Writing--15 hours (IL-VII); and
 - G) Elective Courses--30 hours (IL-E).
- c) Credit will only be awarded for courses licensed by OBRE and presented by course providers licensed by OBRE. Successful completion is

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attendance of a minimum of 90% of all classroom instruction and passing the course examination.

- d) Education credit may be earned by teaching courses licensed by OBRE Real Estate Appraisal Administration and presented through an OBRE licensed provider. To obtain education credit for teaching, the applicant shall provide verification from the education provider of the date, place of presentation and the course name and license number.
 - 1) One hour of education credit for every one hour of classroom instruction shall be awarded.
 - 2) Education credit for teaching shall be awarded for only one presentation from each curriculum (IL-I through IL-VII) and for one presentation of each different course in IL-E curriculum.

Section 1455.50 Experience Requirements for Certified Residential and Certified General Real Estate Appraiser

- a) To be eligible to sit for the appraisal examination for State Certified Residential Real Estate Appraiser, an applicant must submit proof of 2,500 hours of appraisal experience that has occurred over a minimum of two calendar years, and the applicant for State Certified General Real Estate Appraiser must submit proof of 3,000 hours experience that has occurred over a minimum of two calendar years. Experience requirements pertain to both time and hours; therefore, a maximum of 50% of the experience will be credited for appraisal work conducted during any calendar year.
 - b) Approved experience may include fee appraisal, staff appraisal, mass appraisal, ad valorem tax appraisal, mass ad valorem appraisal, review appraisal or appraisal analysis, highest and best use analysis, feasibility analysis or study, real estate sales and brokerage, real estate counseling and real property management. Only appraisal work that is in compliance with the USPAP Provisions and Standards is creditable experience.
 - c) For Certified Residential, a minimum of 50% (1,250 hours) of the requirement must be experience relating to residential property. For Certified General, a minimum of 50% (1,500 hours) of the requirement must be experience relating to nonresidential property. Hours shall be awarded for various types of appraisal as follows:
 - 1) Experience for Residential Type Reports:
 - A) 5 hours -- Vacant building site for residential property of less than 5 units; and
 - B) 15 hours -- Residential property with improvements of less than 5 living units.
 - 2) Experience for Non-Residential Type Reports:
 - A) 30 hours -- Vacant building site for non-residential property (including multi-family residential with highest and best use of more than 4 units);
 - B) 40 hours -- Improved commercial, industrial, office property

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with less than 10,000 SF and apartment property of 5-24 units;

- C) 50 hours -- Improved commercial, industrial, office property with more than 10,000 SF and apartment property with more than 24 units;

D) 40 hours for vacant operating agriculture property; and

E) 50 hours for improved operating agriculture property.

- 3) Appraisal type is determined by highest and best use as indicated in the appraisal report.

d) Real estate sales and brokerage experience shall be accepted if:

- 1) Salespersons and brokers who hold an active license, issued by OBRE, at the date of application for appraiser licensure renewal, that is and has been active and in good standing for 5 of the preceding 7 years, will be granted 40% of the experience requirement. OBRE may require a fee to verify the active and good standing status over the past 7 years.

- 2) The balance of experience (60%) must be reported to the Agency in accordance with Section 1455.60(b)(2)(A) of this Part and must be directly related to performing or reviewing appraisals, in compliance with the USPAP Provisions and Standards 1 and 2, or 3, or 4 and 5.

e) Real Estate Counseling experience shall be awarded if it is in compliance with the USPAP Provisions and Standards 4 and 5.

- f) Real Property Management experience shall be accepted if the experience is directly related to performing or reviewing appraisals, in compliance with the USPAP Provisions and Standards 1 and 2, or 3, or 4 and 5.

g) Experience for mass appraisal, ad valorem tax appraisal and mass ad valorem appraisal shall be documented by the applicant's affidavit detailing the experience credit being requested, and shall be certified by the assessment official in accordance with Section 60(b) of the Act. Acceptable experience includes:

- 1) experience through the cost, income and market sale appraisal techniques must be in compliance with the USPAP Provisions and Standards 1 and 2;

2) experience through model development and calibration in relation to mass ad valorem tax assessments must be in compliance with the USPAP Provisions and Standard 6;

3) experience through the review and analysis of appraisals employing the cost, income and market sale techniques must be in compliance with the USPAP Provisions and Standard 3.

A) OBRE may require samples of the requested experience to corroborate the experience and its compliance to the USPAP Provisions and Standards.

B) The Director may seek the recommendation of the Board as to the validity of the experience.

Section 1455.60 Application as a State Licensed Real Estate Appraiser,

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Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser

- a) An applicant for examination as a real estate appraiser in any rank shall file an application with OBRE on forms provided by OBRE. The application shall expire one year from the date of submission, i.e., the applicant must have passed the examination and applied for licensure within one year after submission of the application for examination.

- b) The application shall include but not be limited to the following:

- 1) Verification of education (i.e., transcripts, certificates of course completion, official records from provider);

- A) a certification that the applicant is a high school graduate or equivalent. Proof of education may be required by post audit of the application; and

- B) proof of successful completion (transcripts, course completion certificates, official school records, etc.) of the appraisal education required by Sections 1455.30 and 1455.40 of this Part.

- 2) Verification of experience. All experience for the Certified Residential and Certified General Real Estate Appraisers shall meet the requirements as set forth in Section 1455.50 of this Part.

- A) In accordance with Section 60(a) of the Act, the applicant shall submit an appraisal log that shall include an address or location of the property; date of the appraisal report; property type; size of the property improvements including land area; the tally of the hours being requested by the applicant; a certifying statement that the applicant's signature appears on a certificate of appraisal that was transmitted with the appraisal report; and a certifying statement that the appraisal work listed will be available for OBRE audit for a period of five years from the date of the application.

- B) An applicant seeking credit for mass appraisal experience shall include with the application his/her affidavit as prescribed in Section 60(b) of the Act. The affidavit shall detail the experience being requested by the applicant and provide the following minimum information:

- i) the boundaries of the mass ad valorem tax appraisal/assessment project;
- ii) the number of parcels included in the mass ad valorem appraisal/assessment project;
- iii) the types of property (residential, commercial, industrial) included in the project and the percentage ratio of each type;
- iv) the time period in which the mass ad valorem tax appraisal/assessment took place (the mass appraisal

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- v) the number and type (residential or nonresidential) of properties valued (the analysis and establishment of values) through the cost, income and market sale appraisal techniques (the appraisal process);
- vi) the number and type (residential or nonresidential) of reviews and analyses of appraisals employing the cost, income and market sale appraisal techniques (the review appraisal process);
- vii) the specific address where records pertaining to such mass ad valorem tax appraisals/assessments, ad valorem appraisals or appraisal reviews are filed; and
- viii) a certification, in accordance with Section 60(b) of the Act.

C) An applicant seeking 40% of the experience requirement, as provided by Section 60(c) of the Act, for experience attained as an Illinois real estate salesperson or broker licensee shall:

- i) request the 40% credit on forms provided by OBRE upon which the applicant shall certify that he/she has maintained an active, good standing Illinois real estate salespersons or brokers license for 5 of the 7 years preceding the date of application for real estate appraiser;
- ii) disclose the real estate sales or brokers license number(s) and date(s) of issuance;
- iii) log the balance of the experience (60%) as prescribed in subsection (b)(2)(A) of this Section; and
- iv) attach a check (license verification fee) in the amount indicated in Section 1455.130 of this Part as the cost to verify the license(s) and status.

3) The required application fees provided for in Section 1455.130 of this Part are not refundable.

4) Certification from the state or territory of the United States or the foreign country in which the applicant was originally licensed as a real estate appraiser and any jurisdiction in which the applicant is currently licensed as a real estate appraiser, if applicable, stating:

- A) the time during which the applicant was licensed; and
- B) whether the file of the applicant contains any record of any disciplinary actions taken or pending.

c) When the accuracy of any submitted documentation or the relevance or sufficiency of the documentation, including, but not limited to, course work or experience, is questioned by OBRE, or if there is a lack of information, discrepancies, or conflicts in information, or a need for clarification, the applicant seeking licensure shall:

- 1) provide such information as may be necessary;
- 2) appear for an interview before the Board or the Director to

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explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

Failure to provide such information, clarification, etc. shall be sufficient grounds to deny the license application.

- d) Upon receipt of the application and all supporting documentation, the applicant's file will be evaluated by OBRE. The applicant will be notified in writing of approval to sit for the examination or the reasons the application has been deferred or denied.

- e) After successful completion of the appropriate examination, an applicant for issuance of a certificate as an appraiser in any rank shall attest, by his/her signature, to the certifications on forms provided by OBRE and shall attach the initial registry fee as indicated in Section 1455.130 of this Part. The fee is not refundable.

Section 1455.70 Appraiser Examination

- a) To be eligible for licensure in any appraiser rank, the applicant must pass an examination administered by OBRE or its designated testing service. The examination will cover the content of the National Uniform Examination and be approved by the Appraiser Qualifications Board.

- b) The passing score on the examination shall be a cut score of 75.

- c) OBRE shall accept the examination results of an Illinois appraisal candidate who has passed the examination for certification or licensure in another jurisdiction under the following conditions:

- 1) The examination has been approved by the Appraiser Qualifications Board.

- 2) The examination taken in another jurisdiction can only be applied toward an Illinois equivalent appraisal rank. If there is no equivalent rank, the examination would not be accepted.

- 3) The applicant must provide an official test score report from the testing entity, or a certification by the jurisdiction where the applicant sat for the examination and was subsequently licensed.

- i) The applicant is responsible for obtaining the score report from the testing entity or jurisdiction and paying fees to obtain the report, or for securing a certification from another jurisdiction and paying any fees required.

- ii) OBRE will not accept or apply the test results until such time as the applicant is notified of having met all other requirements for licensure or certification in Illinois.

- iii) OBRE will not issue a license or certificate until all required fees are paid in full.

Section 1455.80 Nonresident Licensure/Reciprocity/Examination Acceptance/Temporary Practice

- a) A nonresident may be licensed, by an examination process under the

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Act, upon complying with all the provisions, conditions and requirements for licensure in this State and upon payment of application and licensure fees.

- b) A nonresident may be licensed by reciprocity under the Act, upon complying with all the provisions of a reciprocity agreement between this State and any other appraiser regulation authority that is in compliance with the requirements of the FFIRA, Title XI, and upon payment of application and licensure fees.

1) A reciprocity agreement between this State and other appraiser regulatory jurisdictions may be entered into upon the recommendation of the Board and the concurrence by the Commissioner.

2) The Board shall not recommend such agreements with jurisdictions that do not have similar, equal or greater licensure qualification requirements.

3) A reciprocity license becomes invalid when the licensee changes his/her residence to Illinois or any other state.

c) A nonresident may be licensed by examination acceptance under the Act, upon certification from the state or territory where the applicant passed the examination, and that the examination was approved by the Appraiser Qualifications Board.

1) The applicant shall be responsible for obtaining such certification, including associated costs.

2) The examination must have been passed within seven years preceding the date of application by Reciprocity.

d) Every nonresident shall file with his/her application a supporting document form provided by OBRE, upon which each nonresident applicant shall disclose any and all information deemed necessary by the Director, which shall include, but not be limited to, an irrevocable consent to legal service upon the Director, as provided in Section 70(c) of the Act.

e) Any discipline, disciplinary proceeding, or unresolved complaint against an out-of-state applicant for licensure in this State shall be sufficient grounds for the Commissioner to deny license to such applicant in this State.

f) Nonresident Temporary Practice. A nonresident who holds an active appraiser license, in good standing in another jurisdiction, may apply to OBRE and receive a temporary practice permit to appraise real property in this State. The information submitted on the application shall include, but not be limited to, the following:

- 1) the applicant's name, address, social security number, and any other such information as might be necessary to identify the applicant;
- 2) a certification from the agency in the applicant's home state, certifying that the applicant is a duly licensed real estate appraiser, in good standing, the rank of licensure, and setting forth any discipline taken (or pending) by the agency against the applicant;

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3) An estimate of the amount of time required to perform the appraisal assignment(s) and a description of the property(s) and their general location (city, county, etc.) to be appraised by the applicant;

4) An irrevocable consent that service of process in any action against the applicant that may arise from the applicant's Illinois appraisal activities may be made by delivery of process on the Director; and

5) Such other information as may be necessary to determine the applicant's eligibility for temporary appraisal privileges within the State of Illinois.

A) The temporary practice permit shall be for a period of 60 days from the date of issuance. The permit may not be renewed but may be extended for 30 days upon written request and payment of an extension fee, at least 14 business days prior to the expiration of the original temporary practice permit.

B) Each applicant is limited to two temporary appraisal practice permits in any calendar year.

C) The permit shall be valid only for the properties and locations indicated on the application, and the appraisal of other properties or properties in other locations will be considered by OBRE as a false statement on an Agency application and sufficient cause to discipline the licensee.

D) Persons granted temporary appraisal practice permits shall not advertise, solicit or otherwise represent themselves as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser.

E) Applicants will be required to pay any fee required by the Federal government under FFIRA, Title XI.

Section 1455.90 Change in Rank of Appraiser License

An appraiser registered with OBRE may apply to change his/her license to a higher or lower rank by filing the appropriate application, meeting all license requirements, and paying all fees in effect at the time of application for the higher or lower rank. An appraiser may not hold an active license in more than one rank.

- a) Upon the issuance of a license to an appraiser at a higher or lower rank, the term of the appraiser's previous license shall end.
- b) Any actions by OBRE relating to allegations, complaints, investigations, prosecutions, discipline, supervision, or sanctions pursuant to the Act or this Part that apply to an individual holding an appraiser license shall continue to apply to the individual regardless of what rank of appraiser licensure the individual has held, is holding, or may hold in the future.

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Section 1455.100 Appraiser Continuing Education (CE)

a) All State Licensed Real Estate Appraisers registered with OBRE under the Act shall obtain, during the pre-renewal period, a minimum of 20 hours of continuing education, and all State Certified Residential and General Real Estate Appraisers registered with OBRE under the Act shall obtain, during the pre-renewal period, a minimum of 28 hours of continuing education. The continuing education shall be earned by attending OBRE CE courses licensed in 4 different curricula (IL-CE-I through IL-CE-IV) as outlined in Section 1455.220 of this Part, or by attending OBRE approved pre-licensure appraiser courses.

- 1) Credit will not be awarded for repetitious course work (i.e., credit will only be given once for a course attended more than once during the same pre-renewal period).
- 2) A minimum of 7 hours of CE pertaining to USPAP shall be completed prior to every third renewal of an appraiser license. OBRE may require certificates of completion for these courses at the renewal date for which they are due. These courses are listed on OBRE's course catalog under the IL-CE-III curriculum. Pre-licensure courses in the IL-I curriculum will also satisfy this requirement.
- 3) A minimum of 3 hours of CE pertaining to Fair Housing/Fair Lending shall be completed prior to every third renewal of an appraiser license. OBRE may require a certificate of completion for this course at the renewal date for which it is due. These courses are listed on OBRE's course catalog under the IL-CE-IV curriculum.
- 4) CE credit will be awarded to appraisers who attend a qualifying course in curricula IL-CE-I through IL-CE-IV regardless of whether they take or pass an examination given in connection with the course.
- 5) An applicant for renewal is not required to meet CE requirements for a license issued less than 24 months prior to its expiration.
 - A) The 24 month period pertains to the original issue date of a license in any rank; e.g., a licensee who has changed rank is not exempt from CE because the change in rank occurred less than 24 months prior to September 30 of an odd numbered year.
 - B) A State Licensed Real Estate Appraiser, registered with OBRE, applying for a rank change on or after July 1 of any odd numbered year shall have obtained and must document 20 hours of CE prior to the issuance of the new license.
 - C) A Certified Residential or Certified General Real Estate Appraiser, registered with OBRE, applying for a rank change on or after July 1 of any odd numbered year shall have obtained and must document 28 hours of CE prior to the issuance of the new license.
- 6) Real estate appraisers licensed in Illinois but residing in

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another state or jurisdiction shall comply with the CE requirements as set forth in this Section except where the license was issued by reciprocity and the reciprocity agreement provides for a different CE requirement; however, the nonresident registrant is not exempted from mandatory CE required for all Illinois appraiser registrants.

7) In lieu of meeting the CE requirement by attending OBRE approved courses, all or any part of the CE requirement may be satisfied by:

- A) teaching pre-licensure or CE courses licensed by OBRE and sponsored by a provider licensed by OBRE. The instructor will be awarded CE credit for the number of hours for which the course is licensed. CE credit will be awarded for only one presentation of a course (repetitious course work is not acceptable). Credit is only applicable to the renewal following the pre-renewal period in which the course was taught; and
- B) participating in the development of a course(s) licensed by OBRE. CE credit will be awarded only once for development of a course. Credit is only applicable to the renewal following the pre-renewal period in which the course was developed.
- b) Successful CE course completion is a minimum of 90% attendance of all course instruction.
 - 1) CE course providers must certify the CE to OBRE within 21 days after each course presentation and OBRE will credit the registrant's record.
 - 2) Pre-licensure courses taken for CE credit must be submitted to OBRE by the registrant as soon as the course certificate is issued, and OBRE will credit the registrant's record. Otherwise, documentation of the CE credit must be attached to the renewal application.
 - c) Real estate brokers and salespersons who are also registered as a real estate appraiser will be granted, by reciprocity, 25% of the CE hours required for the rank of license held at date of renewal, provided that:
 - 1) the broker or salesperson license was renewed during its preceding renewal period;
 - 2) the current broker or salesperson license is active and in good standing at the time of the appraiser license renewal;
 - 3) the renewal of the broker or salesperson license required a minimum of 12 hours of CE in the preceding renewal period;
 - 4) the appraiser renewal applicant requests the 7 hours CE credit and pays a fee as indicated in Section 1455.130 of this Part as the cost of verifying the broker or salesperson license status.

Section 1455.110 Appraiser License Renewals

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a) Every appraiser license registered with OBRE shall, unless terminated earlier by provisions of this Part or the Act, expire on September 30 of each odd-numbered year. The holder of a license may renew the license or certification during the months of July, August and September preceding the expiration date by completing an application provided by OBRE, meeting all renewal requirements and paying the required fee specified in Section 1455.130 of this Part.

1) On or after July 1 and before September 30 of odd numbered years OBRE will provide each appraiser registrant, by mail at his/her last known address, a renewal application. The application shall indicate the requirements for renewal and must be completed in its entirety by the renewal applicant.

A) The notice of renewal application is provided as a convenience to the registrant.

B) The lack of notice of renewal application by OBRE shall not be grounds for the applicant to avoid penalties or disciplinary sanctions resulting from appraisal practice on a non-renewed license.

2) In order to renew an appraiser license, the renewal applicant will be required to comply with the CE requirements pursuant to Section 85 of the Act and Section 1455.100 of this Part.

b) A license due to expire or which has been expired for less than one year, under the rank of State Licensed Real Estate Appraiser, may be renewed by providing evidence of completion of experience as required by Section 60(f) of the Act, evidence of 20 hours of CE course work, and by payment of renewal fees as set forth in Section 1455.130 of this Part.

1) A State Licensed Real Estate Appraiser license that has been expired for 2 to 3 years, may be renewed by meeting the experience provisions in Section 60(f) of the Act, by evidence of 20 hours of CE, and by payment of the renewal fee and late penalty; however:

A) 20 hours of CE must have been completed during the 24 months immediately preceding the date of renewal application; and

B) any required experience must be from appraisal work occurring after any experience earlier reported.

2) A State Licensed Real Estate Appraiser license that has been expired for more than 3 years shall not be renewed. The licensee may reapply for licensure by meeting the qualifying criteria in effect at the date of application, including re-examination.

c) A license due to expire or that has been expired for less than one year under the ranks of State Certified Residential Real Estate Appraiser or State Certified General Real Estate Appraiser may be renewed by meeting the provisions of Section 1455.100 of this Part, and by paying the renewal fee and late penalty fee as prescribed in Section 1455.130 of this Part.

1) A license in the rank of State Certified Residential or State Certified General Real Estate Appraiser that has been expired for

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2 to 3 years may be renewed by meeting the provisions of Section 1455.100 of this Part and payment of the renewal fee and late penalty; however, the required 28 hours of CE must have been completed during the 24 months immediately preceding the date of renewal application; and

2) A license as a State Certified Residential or State Certified General Real Estate Appraiser that has been expired for more than 3 years shall not be renewed. The licensee may reapply for licensure by meeting the qualifying criteria in effect at the date of application including re-examination.

d) The holder of a license as a State Licensed, Certified Residential or Certified General Appraiser that is expired for a period of less than 3 years may renew the license or certificate in accordance with the provisions of this Section; however, licensees may not reapply for licensure in the same appraiser rank as the expired license until the license has been expired for more than 3 years.

Section 1455.120 Term of Licensure

In accordance with Section 65 of the Act, the term of licensure for all appraiser ranks shall be from the date of issuance to September 30 of each odd numbered year.

a) An appraiser license in any rank originally issued between July 1 and September 30 of each odd numbered year shall be valid past September 30 of that year and expire on September 30 of the subsequent odd numbered year; i.e., the license will be valid for a period of 24 months to 27 months, unless terminated earlier by the provisions of the Act or this Part.

b) An appraiser license that has expired, or that has been surrendered, suspended, or revoked, is considered inactive. An appraiser with an inactive appraiser license may continue to appraise real property; however, he/she may not represent himself/herself as an Illinois Licensed Appraiser in any rank. The inactive licensee is further prohibited from representing himself/herself as having been licensed in any rank as a real estate appraiser. Such representations constitute a violation of Sections 90 and 95 of the Act and a violation of the USPAP, Ethics Provision.

1) A complaint against an inactive licensed appraiser who has not represented himself/herself as a licensed appraiser in any rank is outside the authority of OBRE if the alleged violations occurred during a time when the licensee was inactive.

2) A complaint against an inactive licensed appraiser will be deferred if it is determined that the appraisal for which the complaint was filed was developed and reported by the inactive appraiser without reference to a State appraiser rank or number.

A) The inactive licensed appraiser's file will be flagged with an intent to investigate in the event that the registrant applies to renew the license, up-rank or down-rank the

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- license or reapply for licensure in any rank.
- B) At the time of such application for renewal, for change to higher or lower rank, or application for new licensure in any rank, OBRE shall defer the consideration of the application until an investigation can be completed. The renewal applicant will be notified of the deferment, which shall not exceed 120 days. At that time, if the investigation indicates possible violations of the Act, OBRE, with a recommendation of a Board Conference Panel, may deny the application and notify the applicant of his/her rights of due process.

Section 1455.130 Fees

a) Appraiser Application Fees

- 1) The application fee for licensure as a State Licensed Real Estate Appraiser (whether by examination, examination acceptance, or reciprocity) is \$175.
- 2) The application fee for licensure as a Certified General or Certified Residential Real Estate Appraiser (whether by examination, examination acceptance, or reciprocity) is \$175.
- 3) The initial registry application fee for all appraiser ranks is \$75.
- 4) The fee for application for a temporary practice permit is \$100.
- 5) The application fee for extension of a temporary practice permit is \$100.

b) Appraiser Renewal Fees

- 1) The fee for renewal of an active appraiser license is \$450.
- 2) The fee for renewing an expired appraiser license is (\$450 renewal + \$100 late penalty) \$550.

c) Application/Renewal Fees for Appraiser Education Providers

- 1) The fee for application as a real estate appraiser education provider shall be \$1000, plus necessary course approval fees as set forth in subsection (d) below.
- 2) The fee for renewal as an approved real estate appraiser education provider shall be \$500.
- 3) The fee to renew an appraiser education provider license that has been expired for less than 61 days shall be \$600. After 61 days the license cannot be renewed, but the applicant can apply for a new license.

d) Application/Renewal Fees for Pre-licensure Courses and CE Courses

- 1) The application fee for a pre-licensure course license is \$500.
 - A) The fee for renewal of a pre-licensure appraisal course license is \$250.
- B) The fee for renewal of a pre-licensure appraisal course that has been expired for less than 366 days is \$350. After 366 days the license cannot be renewed, but the applicant can apply for a new course license.

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- 2) The application fee for a CE course license is \$300.
 - A) The fee to renew a CE course license is \$150.
 - B) The renewal fee for a licensed CE course that has been expired for less than 366 days is \$250. After 366 days the license cannot be renewed, but the applicant can apply for a new course license.
- 3) The fee for evaluation of revisions for licensed courses is \$200 for pre-licensure courses and \$75 for CE courses.
- e) General
 - 1) All fees paid pursuant to the Act and this Section are non-refundable.
 - 2) Applicants for examination and re-examination for appraiser licensing shall pay a fee covering the cost of providing such examination. If a designated testing service is utilized for the examination, such fee shall be paid directly to the designated testing service.
 - 3) The fee for certification of a registrant's record (e.g., license status, examination information, discipline, etc.) is \$25.
 - 4) There is no fee for license verification.
 - 5) The fee for issuance of a duplicate license or certification or replacement of a lost license or certification is \$25.
 - 6) The fee for a license with name and/or address change (other than name and/or address change at renewal) is \$25.
 - 7) The fee for a decorative wall certificate is \$25.
 - 8) The fee for a roster of persons licensed under the Act is \$40 for a registrant listing or \$55 for printed labels, which shall include the name, address, city, state, and zip code of each licensee.
 - 9) The fee for requesting a waiver of the real estate appraiser experience requirement pursuant to Section 60(g) of the Act shall be \$25.
 - 10) The fee for furnishing a record of proceedings is \$1 per page of the record.
 - 11) National Registry fees payable to the Appraisal Subcommittee pursuant to federal regulations and laws shall be paid by OBRE from funds appropriated by the General Assembly from the Appraisal Administration Fund.
 - 12) The fee to verify the existence and status of a brokers or salesperson license for granting reciprocal CE is \$20.
 - 13) The fee to verify the existence and status of a broker or salesperson license for granting experience for appraiser licensure is \$25.

SUBPART B: APPRAISAL EDUCATION PROVIDERS/COURSES

Section 1455.200 Appraisal Education Providers

- a) An entity seeking licensure as an appraisal education provider shall

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submit an application, on forms provided by OBRE, upon which they must certify and promise that they now meet (and will maintain) the following minimum criteria:

- 1) maintain a fixed office that is adequate for the maintenance of all records, office equipment, files, telephone equipment and office space necessary for customer service;
- 2) administer a mandatory final examination for each pre-licensure course offering;
- 3) provide each student, within 21 days after completion of each course (or within 21 days after a request by a student or OBRE), a certification of completion, transcript or other document verifying hours of attendance and successful course completion and identifying the course by name and number, if any. In addition, such certificate, transcript or other document shall indicate the provider's address and telephone number and the location and date of the course, and shall include an authorized signature of the course provider's representative;
- 4) comply with all applicable fire, building, zoning, health, safety and accessibility codes and standards pertaining to the premises, equipment and facilities of the course site;
- 5) provide the student with information that specifies the course of study to be offered, the tuition to be charged, the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship, any additional fee to be charged for supplies, materials or books that become the property of the student upon payment, and such other matters as are material to the relationship between the school and the student (e.g., cost of retaking a course, current status of licensure, any disciplinary action taken by OBRE and attendance requirements);
- 6) maintain for each student a record that includes the course of instruction undertaken, dates of attendance, and areas of study completed satisfactorily. Each student's record shall be maintained by the school for a period of at least 7 years and shall be available for inspection by the student or by OBRE or its designee during regular business hours; and
- 7) within 21 days after completion of each CE course presentation, the provider shall certify to OBRE a roster of all duly registered students. The roster shall be on forms provided by OBRE and shall include:
 - A) the CE course license number;
 - B) the license number of the provider;
 - C) the date(s) and location of the CE presentation;
 - D) the name of the instructor(s);
 - E) a listing of students by full name, appraiser license number, social security number and an indication that the student did or did not attend a minimum of 90% of the course (the names shall be listed in alphabetical order);

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- F) the authorized signature of a representative of the provider; and
- G) the roster form must be stamped, using the personalized stamp provided to the provider by OBRE.
- 8) Employ competent instructors.
 - A) Instructors for courses in the IL-IV, IL-V and IL-VII curricula shall be Certified General Real Estate Appraisers or full time faculty members of a 4-year college or university.
 - B) Instructors for courses in the IL-I, IL-II, IL-III and IL-VI curricula shall be Certified Residential or Certified General Real Estate Appraisers or full time faculty members of a 4-year college or university.
 - C) For CE courses and courses in the IL-E curriculum, instructors should be persons with education and experience in appraisal and/or the subject matter of the course.
- 9) Approved course providers shall not advertise as being endorsed, recommended or accredited by OBRE. Course providers may indicate that the provider and course of study have been approved or is pending approval by OBRE.
- 10) Illinois Colleges and Universities that apply as appraisal education providers under this Section shall be accredited by the regional accrediting body and offer either or both an associate's and baccalaureate degree program.
 - b) Fee Exemption. OBRE shall approve and issue a license to any entity who certifies to the above criteria on an application form provided by OBRE. The application shall be accompanied by the application fee as provided in Section 1455.130 of this Part. The following entities are exempt from the fees:
 - 1) Illinois Colleges and Universities accredited by the regional accrediting body and who offer either or both an associate's and baccalaureate degree program will not be required to pay the application fees.
 - 2) Agencies under the jurisdiction of the Governor of the State of Illinois will not be required to pay the application fees.
 - c) Sub-organizations (such as chapters, branch schools and local associations) may apply to OBRE for licensure as an appraisal education sub-provider. The application must certify that the office is licensed under the appraisal education provider's license of the parent organization. Sub-providers may apply for licensure for CE courses but may not seek licensure for pre-licensure appraisal courses. The applicant for a sub-provider license shall certify on forms provided by OBRE that:
 - 1) the sub-organization is an authorized affiliate of the parent organization;
 - 2) the sub-organization certifies to and promises to abide by and maintain the qualifying criteria provided in subsections (a)(3) through (8) of this Section;

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- 3) the parent organization will review and approve any course submitted for licensure, or that the parent organization will award credit for the course within their designation program;
- 4) the license of the parent organization may not be jeopardized or disciplined as a result of the actions of the sub-provider, but that the courses licensed under the sub-providership may be revoked as a result of violation of any of the application covenants;
- 5) each CE course sub-provider shall issue to each registered student a certificate of attendance that shall indicate the student's name, social security number or appraiser license/certification number, the date(s) and location of the course, the signature of an authorized representative of the sub-provider and a statement that the student did or did not attend a minimum of 90% of the course. A certificate of attendance may be in the form of a course attendance diploma, a certification letter, an official transcript or a "Uniform Request for Continuing Education Credit";
- 6) Within 21 days after completion of each CE course presentation, the sub-provider shall certify to OBRE a roster of all duly registered students. The roster shall be on forms provided by OBRE and shall include:
 - A) the CE course license number;
 - B) the license number of the parent provider;
 - C) the date(s) and location of the CE presentation;
 - D) the name of the instructor(s);
 - E) a listing of students by full name, appraiser license number, social security number and an indication that the student did or did not attend a minimum of 90% of the course (the names shall be listed in alphabetical order);
 - F) the authorized signature of a representative of the sub-organization; and
 - G) the roster form must be stamped, using the personalized stamp provided to the sub-organization by OBRE.

Section 1455.210 Pre-Licensure Course Curricula

- a) All courses approved for licensure as pre-licensure appraisal courses shall be categorized into one of the eight curricula listed below.
 - 1) Courses assigned to the IL-I curricula, USPAP Courses, must contain a minimum of 15 hours of instruction including a final examination of a least 25 questions. To be approved for licensure, the applicant must submit a course syllabus that indicates a time frame for topic presentation. In addition, all course materials, including text books and final examination, must be submitted with the application. The examination may be a 25 question examination or a pool of examination questions from which a final examination may be developed for each presentation.

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The materials will not be returned. To be approved for licensure, the course must adequately cover 100% of the following topics:

- A) Ethics Provision - USPAP;
 - B) Competency Provision - USPAP;
 - C) Departure Provision - USPAP;
 - D) All sections of Standards 1 through 6 of the USPAP;
 - E) Advisory Opinions/Statements/Comments - USPAP; and
 - F) Fair Housing/Fair Lending.
- 2) Courses assigned to the IL-II curricula are those that cover Basic Principles of Appraisal, including overview of the appraisal process covering the principles of market and valuation analysis necessary for appraising real property, an introduction to appraisal theory, concepts, techniques, and the level of competence required to perform professional appraisal analyses. These courses must contain a minimum of 30 hours of instruction including a final examination of at least 50 questions. Two courses of 15 hours each may be approved in tandem; i.e., to receive credit for either, the student would have to successfully complete both. To be approved for licensure, the applicant must submit a course syllabus that indicates a time frame for topic presentation. In addition, all course materials must be submitted, including the text books and final examination, with the application. The materials will not be returned. The examination may be a 50 question examination or a pool of examination questions from which a final examination may be developed for each presentation. The following specific topics must be included in the course curriculum:
 - A) Influences on Real Estate
 - B) Real Estate/Real Property/Personal Property
 - C) Real Estate Ownership
 - D) Legal Descriptions
 - E) Types of Value
 - F) Economic Principles
 - G) Neighborhood Data and Analysis
 - H) Site Data and Analysis
 - I) Improvement Data and Analysis
 - J) Basic Construction and Design
 - K) Highest and Best Use Analysis
 - L) Reconciliation and Final Value Estimate
 - 3) Courses assigned to the IL-III curricula, Residential Appraisal Procedures, are those designed to provide an understanding and working knowledge of the procedures and techniques required to estimate the market value of residential properties. Emphasis should be placed on the extraction of data and the correct application of the three approaches to real estate valuation. These courses must contain a minimum of 30 hours of instruction including a final examination of at least 50 questions. Two

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courses of 15 hours each may be approved in tandem; i.e., to receive credit for either, the student would have to successfully complete both. To be approved for licensure, the applicant must submit a course syllabus that indicates the time frame for topic presentation. In addition, all course materials must be submitted, including the text books and final examination, with the application. The materials will not be returned. The examination may be a 50 question examination or a pool of examination questions from which a final examination may be developed for each presentation. The following specific topics must be included in the course curriculum:

- A) Residential Site Valuation - Sales Comparison
- B) Cost Approach - Cost Estimates
- C) Cost Approach - Entrepreneurial Profit/Incentive
- D) Cost Approach - Types of Depreciation
- E) Cost Approach - Depreciation - Age-Life Method
- F) Cost Approach - Depreciation - Market Extraction Method
- G) Cost Approach - Application
- H) Sales Comparison Approach - Units of Comparison
- I) Sales Comparison Approach - Elements of Comparison
- J) Sales Comparison Approach - Cash Equivalency
- K) Sales Comparison Approach - Making Adjustments
- L) Sales Comparison Approach - Application
- M) Income Capitalization Approach - Gross Rent Estimates
- N) Income Capitalization Approach - Gross Rent Multiplier
- O) Income Capitalization Approach - Application

4) Courses assigned to the IL-IV curricula, Non-residential Appraisal Procedures, are those that focus on the appraisal of nonresidential properties and provide a practical solution for estimating value by an in-depth study of appraisal theory and the development of advanced valuation skills. These courses must contain a minimum of 30 hours of instruction including a final examination of at least 50 questions. Two courses of 15 hours each may be approved in tandem; i.e., to receive credit for either, the student would have to successfully complete both. To be approved for licensure, the applicant must submit a course syllabus that indicates the time frame for topic presentation. In addition, all course materials, including the text books and final examination, must be submitted with the application. The materials will not be returned. The examination may be a 50 question examination or a pool of examination questions from which a final examination may be developed for each presentation. The following specific topics must be included in the course curriculum:

- A) Site Valuation - Sales Comparison
- B) Site Valuation - Allocation/Extraction
- C) Cost Approach - Cost Estimates
- D) Cost Approach - Entrepreneurial Profit/Incentive

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- E) Cost Approach - Types of Depreciation
- F) Cost Approach - Depreciation - Age-Life Method
- G) Cost Approach - Depreciation - Market Extraction Method
- H) Cost Approach - Application
- I) Sales Comparison Approach - Units of Comparison
- J) Sales Comparison Approach - Elements of Comparison
- K) Sales Comparison Approach - Cash Equivalency
- L) Sales Comparison Approach - Making Adjustments
- M) Sales Comparison Approach - Application
- N) Income Approach - Income Estimates
- O) Income Approach - Expense Estimates
- P) Income Approach - Capitalization Rates
- Q) Income Approach - Direct Capitalization
- R) Income Approach - Income Multipliers
- S) Income Approach - Application

5) Courses assigned to the IL-V curricula, Capitalization Methods and Techniques, are to provide alternative methods of estimating present value based on income forecasts. These courses focus on more advanced capitalization methods and techniques. These courses must contain a minimum of 30 hours of instruction including a final examination of at least 50 questions. Two courses of 15 hours each may be approved in tandem; i.e., to receive credit for either, the student would have to successfully complete both. To be approved for licensure, the applicant must submit a course syllabus that indicates the time frame for topic presentation. In addition, all course materials, including the text books and final examination, must be submitted with the application. The materials will not be returned. The examination may be a 50 question examination or a pool of examination questions from which a final examination may be developed for each presentation. The following specific topics must be included in the course curriculum:

- A) Six Functions of \$1
- B) Lease Analysis/Gross Income Estimates
- C) Vacancy and Collection Loss
- D) Operating Expense Estimates
- E) Replacement Allowances
- F) Operating Statement Ratios and Multipliers
- G) Debt Service/Equity Dividend
- H) Direct Capitalization
- I) Overall Rate Development - Market Extraction
- J) Overall Rate Development - Band of Investment
- K) Overall Rate Development - Ratios/Multipliers
- L) Equity Dividend Rate
- M) Debt Coverage Ratio
- N) Cash Flow Estimates
- O) Reversion Estimates
- P) Discount and Yield Rates

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- Q) Yield Capitalization Overview
 R) Discounted Cash Flow Analysis
- 6) Courses assigned to the IL-VI curriculum are residential report writing courses designed to provide students with a basic understanding of effective writing as it pertains to residential real estate appraisals. Courses should include instruction in completing residential appraisal forms but should also cover narrative reporting relative to residential property, especially narrative reporting to further clarify a form type appraisal. Courses should be developed to teach the appraiser students methods and techniques that will enable them to write in a clear and concise manner and to accentuate the pertinent facts and eliminate non-pertinent information. The intent of these courses is to provide the student with the ability to prepare residential appraisal reports that will enable a reader who is unfamiliar with the appraisal process to understand the basics of the value approaches and be convinced that the conclusions drawn by the appraiser based on the data presented is reasonable and correct. These courses must contain a minimum of 15 hours of instruction. The final examination must include a minimum of 25 questions. To be approved for licensure, the applicant must submit a course syllabus that indicates the time frame for topic presentation and all course materials including the text books and the final examination. The materials will not be returned. The examination may be 25 questions or a pool of questions from which a final examination may be developed that includes a minimum of 25 questions.
- 7) Courses assigned to the IL-VII curriculum are courses designed to provide students with a basic understanding of effective writing as it pertains to non-residential real estate appraisals. Courses should include instruction in completing non-residential appraisal forms but should also cover narrative reporting relative to non-residential property. Courses should be developed to teach the appraiser students methods and techniques that will enable them to write in a clear and concise manner and to accentuate the pertinent facts and eliminate non-pertinent information. The intent of these courses is to provide the student with the ability to prepare non-residential appraisal reports that will enable a reader who is unfamiliar with the appraisal process to understand the basics of the value approaches and be convinced that the conclusions drawn by the appraiser based on the data presented is reasonable and correct. These courses must contain a minimum of 15 hours of instruction. The final examination must include a minimum of 25 questions. To be approved for licensure, the applicant must submit a course syllabus that indicates the time frame for topic presentation and all course materials including the text books and the final examination. The materials will not be returned. The

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- examination may be 25 questions or a pool of questions from which a final examination may be developed that includes a minimum of 25 questions.
- 8) Courses assigned to the IL-E curriculum (Electives) are courses that contain topics not covered in the core course curricula; nonappraisal topics that relate to real estate appraisal such as statistics, real estate law, etc.; or a more copious presentation of a topic or topics that are included in the core courses. Elective courses shall be approved for a minimum of 15 hours or 30 hours of instruction, with the maximum approval of 30 hours. Elective courses must include a final examination with a minimum of 25 questions for 15 hours of instruction and 50 questions for 30 hours of instruction. To be approved for licensure, the applicant must submit a course syllabus that indicates the time frame for topic presentation. In addition, all course materials, including the text books and final examination, must be submitted with the application. The materials will not be returned. The examination may be 25 questions (15 hour course), 50 questions (30 hour course), or a pool of examination questions from which a final examination may be developed for each presentation. Credit for elective hours can be achieved by successful completion of courses approved in the IL-E curriculum.
- b) Successful completion of a pre-licensure course means that a student attended a minimum of 90% of all instruction and correctly answered 70% of all final examination questions.
- c) Pre-licensure courses shall be licensed for credit hours required by the curriculum; however, courses requiring a minimum of 30 hours may be approved as two 15 hour courses. Pre-licensure courses, licensed prior to July 1, 1998 having classroom hours in excess of the curriculum requirement and approved for elective credit, shall not be renewed to include the excess hours. Upon the expiration date of these courses, providers may apply for renewal of approved credit hours in the initial curriculum with the exception of the excess credit hours.
- Section 1455.220 Continuing Education Course Curricula**
- a) All CE courses licensed by OBRE are in 4 categories:
- 1) IL-CE-I are courses with topic material that relates to appraisal methods, techniques, theory, practice, and any other material relating to the practice of real estate appraisal. Courses in this curriculum may be approved for 3 to 28 hours.
 - 2) IL-CE-II are courses that contain real estate topics other than real estate appraisal. Courses in this curriculum may be approved for 3 to 28 hours.
 - 3) IL-CE-III are courses that contain topic material relative to the USPAP Provisions and Standards. Courses in this curriculum may be approved for 3 to 28 hours.

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- 4) IL-CE-IV are courses that contain material relative to Fair Housing and Fair Lending. These courses will contain a minimum of 3 hours.
- b) CE courses, with or without a final examination, shall be approved by the Director, upon the recommendation of the Board. If the Director decides to approve or deny a course against the recommendation of the Board, then his/her reasons shall be submitted in writing to the Board with a copy to the Commissioner. The Board may move to petition the Commissioner to reverse the decision of the Director. The Commissioner's decision to approve or deny the course shall be final.
- c) Courses licensed by OBRE for pre-license appraiser education are approved for CE credit. The renewal applicant will be awarded credit for attendance at these courses provided the license for the course was valid and in good standing at the time of attendance, and provided the course is not repetitious, i.e., a course taken twice during the same pre-renewal period. A maximum of 28 CE hours may be credited for pre-licensure courses.
- d) The application for each course approval shall include a description of the course, a course (or instructor's) outline that shall list the time frame for topic presentation, the number of classroom instruction hours excluding examination, the time allotted for examination (if any), the specific course name as it will appear on transcripts or course certifications, a sample of the certificate, the transcript or other documentation that will be used to document the student's attendance, and any other information that may be required by OBRE.
 - 1) An applicant may be required to submit texts and all other course materials for evaluation by the Appraisal Board.
 - 2) The application for CE courses being offered by a sub-provider shall also include a certification in accordance with Section 1455.200(c) of this Part.
 - 3) The Board/Director shall approve courses that would contribute to the integrity, extension and enhancement of professional skills and knowledge in the practice of Real Estate Appraisal.
 - 4) The Board/Director shall not approve:
 - A) motivation courses or seminars;
 - B) courses or seminars that focus on the recruitment of employees or clients;
 - C) courses or seminars with instructional material relative to associations;
 - D) courses or seminars with instructional material relative to passing the State's appraiser examination;
 - E) courses or seminars having less than three classroom hours of instruction exclusive of examination (if any); and
 - F) a course for more than 28 hours CE credit.
 - 5) Subsequent to approval of any CE course, revisions in course content and/or course material shall be submitted for re-evaluation and re-approval. Failure to report course changes may result in revocation of the CE course license. The fee for

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- re-approval shall be in accordance with Section 1455.130 of this Part.
- 6) Approval (license) for CE courses shall expire on September 30 of odd numbered years. The provider or sub-provider may renew the approval (license) by completing a renewal application and paying the renewal fee in accordance with Section 1455.130 of this Part.
 - e) Audits and Inspections. OBRE may conduct on-site inspections of the course provider's (or sub-provider's) place of business and may audit any session of any course approved for pre-license or CE credit.
 - 1) At the request of OBRE, a course provider shall provide a list of all courses that the provider is planning to offer within a 6-month period subsequent to the request. The list shall include the name and license number of each course, as well as the date, time and location of each presentation.
 - 2) In the event of a course audit, the provider shall provide OBRE, at no cost, all course materials used in the presentation of the course being audited.
 - 3) An OBRE or designated OBRE employee may inspect the business office of any course provider (or sub-provider) during normal business hours.
 - f) CE Course Withdrawal of Approval, Termination, Revocation
 - 1) OBRE, upon recommendation of the Real Estate Appraisal Board, shall terminate, revoke, suspend or place on probation the approval of the real estate appraiser education provider when the quality of the program fails to continue to meet the established criteria of an approved provider as set out in Sections 1455.200, 1455.210 and 1455.220 of this Part, or upon determination that the decision to approve the program was based upon false or deceptive information.
 - 2) The provider's license will terminate immediately upon the failure to renew. Course licenses will terminate immediately upon the expiration date or upon the termination of the provider's license. The provider may thereafter reapply for approval as an appraiser education provider and for course approval.

Section 1455.230 Appraisal Course Providers/Courses, Enforcement Procedures

- a) OBRE shall investigate, or contract for investigation, all written complaints relative to violations by course providers or sub-providers registered with OBRE under the Act, or a violation of any of the provisions of Section 90(b) of the Act. The Director shall have discretionary authority to close complaint cases:
 - 1) when OBRE has no regulatory authority over the course provider (or sub-provider) for which the allegations are charged;
 - 2) when the written complaint contains no evidence of a violation or reasonable cause to further investigate;

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- 3) when the written complaint contains no means to obtain further needed information or documentation from the complainant or when the complainant will not cooperate by testifying or by providing further information or documentation;
 - 4) when, in the opinion of the Director, the evidence from a preliminary investigation would not result in successful prosecution;
 - 5) when, in the opinion of the Director, the alleged violation was apparently inadvertent and had caused no significant harm to a student or the public; and
 - 6) when the investigation indicates that no violation has occurred, or that a violation might have occurred but the evidence, in the opinion of the Director, is less than clear and convincing.
- c) Cases closed by the Director shall be referred to as Executive Closure or Dismissal and a summary of the allegations and reasons for closure will be available to the individual members of the Board for a period of six months, during which time a member may question the Director's decision and request the case be reopened.

- 1) In the event a Board member requests a case be reopened, the Director shall reopen the case for further investigation or submit in writing, within 21 days after the request, the reasons why he will not honor the request.
 - 2) If the Director does not reopen a case that has been closed by Executive Dismissal, then the Board member may petition the Assistant Commissioner of Real Estate Professions, who shall consider both sides of the issue and decide if the case should be reopened. The decision of the Assistant Commissioner is final.
- d) Upon the completion of an investigation or a preliminary investigation, the Director may, in accordance with Section 90 of the Act, hold an informal disciplinary conference with the course provider's representative(s) that shall be attended by at least one member of the Board and the Director or his/her designee. An assistant of the Director, or his/her designee, may attend the conference to assist in the proceedings.

- 1) The purpose of the conference shall be to attain further facts in the matter, to allow the provider to speak on his/her own behalf relative to the allegations presented at the meeting, and to seek a recommendation from the Conference Panel as to the disposition of the case.
- 2) At the conclusion of each informal conference, the Conference Panel may recommend that a settlement offer not be extended, in which case the file will change status from open active to pending formal hearing, and the investigation shall continue. Upon completion of the investigation, the file shall be submitted to prosecution for hearing in accordance with Section 100 of the Act and Subpart D of this Part.
- 3) The conference panel may recommend to the Director a disposition of the case by settlement offer. Such a recommendation shall

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- include the terms and/or conditions for settlement. The recommendation shall be in one of the following forms:
- A) that no further action be taken by OBRE on the allegations;
 - B) that an Administrative Warning Letter (AWL) be issued with or without conditions;
 - C) a Consent Order to Administrative Supervision (CAS-a non-publishable discipline) with or without conditions that may include, but shall not be limited to, reimbursement of costs associated with the handling of the complaint;
 - D) a Consent Order (CO) that shall include a publishable discipline of reprimand, probation, suspension, revocation, reclassification of licensure, other terms and conditions, and/or a fine of up to \$10,000 for each violation;
 - E) the Director shall prepare the documents for disposition of a case by Informal Disciplinary Conference (AWL, CO, CAS or letter dismissing the case) and transmit the documents to the course provider or sub-provider with any necessary instructions for his/her completion;
 - F) The complainant shall be notified by the Director of the disposition of the case;
 - G) The terms and conditions of any dismissal, with or without conditions, and the terms of a Consent to Administrative Supervision, shall be confidential except that the complainant, if a known individual, will be notified of the Administrative Supervision and the period of supervision.
 - i) The terms and conditions of a dismissal or a CAS may be released by legal mandate such as a court order or subpoena but is exempt from the Freedom of Information Act.
 - ii) In cases where the complaint is dismissed, with or without conditions, or where a license is placed on Administrative Supervision, OBRE-REAA will report the license in good standing, active or non-renewed, and the license may be reported by the course provider as a license in good standing that has not been disciplined;
 - H) The terms and conditions of a CO, upon request and payment of any applicable duplication fees, shall be released by the Director. The terms and conditions of a CO may be published in the REAA newsletter publication along with course provider's name and license number, and, when applicable, the course name and license number may be published in other forums. A CO is available to the general public;
 - I) This Section shall not limit the authority of OBRE to negotiate settlement agreements with course providers without an informal conference proceeding, or to revise the conditions of an AWL, CAS or CO, as recommended by the

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Conference Panel, in accordance with Section 90 of the Act.

SUBPART C: APPRAISER ENFORCEMENT

Section 1455.300 Appraiser Enforcement Procedures

a) OBRE shall investigate, or contract for investigation, all written complaints relative to the appraisal practice of persons registered as appraisers under the Act.

b) The Director shall have discretionary authority to close complaint cases when:

- 1) OBRE has no regulatory authority over the persons for which the allegations are charged;
- 2) the written complaint contains no evidence of a violation or reasonable cause to further investigate;
- 3) the written complaint contains no means to obtain further needed information or documentation from the complainant, or when the complainant will not cooperate with testimony or by providing further information or documentation;
- 4) in the opinion of the Director, the evidence from a preliminary investigation would not result in successful prosecution;
- 5) in the opinion of the Director, the alleged violation was apparently inadvertent and caused no significant harm to the public;
- 6) the only basis of a complaint is that the final value estimate was "too high" or "too low"; and
- 7) the investigation indicates that no violation has occurred, or that a violation might have occurred but the evidence, in the opinion of the Director, is less than clear and convincing.

c) Cases closed by the Director shall be referred to as Executive Closure or Dismissal and a summary of the allegations and reasons for closure will be available to the individual members of the Board, for a period of six months, during which time a member may question the Director's decision and request the case be reopened.

1) In the event a Board member requests a case be reopened, the Director shall reopen the case for further investigation, or submit in writing, within 21 days after the request, the reasons why he will not honor the request.

2) If the Director does not reopen a case that has been closed by Executive Dismissal, then the Board member may petition the Assistant Commissioner of Real Estate Professions, who shall consider both sides of the issue and decide if the case should be reopened. The decision of the Assistant Commissioner is final.

Section 1455.310 Informal Conferences

a) Upon the completion of an investigation or a preliminary investigation, the Director may, in accordance with Section 90 of the

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Act, hold an informal disciplinary conference with respondent, which shall be attended by at least one member of the Board and the Director or his/her designee. The conference is not an open meeting, but an assistant of the Director, or his/her designee, may attend the conference to assist in the proceeding.

b) The purpose of the conference shall be to attain further facts in the matter, to allow respondents to speak on their own behalf relative to the allegations presented at the meeting, and to seek a recommendation from the Conference Panel as to the disposition of the case.

c) At the conclusion of each informal conference, the Conference Panel may recommend that a settlement offer not be extended, in which case the file will change status from open active to pending formal hearing and the investigation shall continue. Upon completion of the investigation, the file shall be submitted to prosecution for hearing in accordance with Section 100 of the Act and Subpart D of this Part, or the conference panel may recommend to the Director a disposition of the case by settlement offer.

Section 1455.320 Settlements

A recommendation of settlement offer shall include the terms and/or conditions for settlement. The recommendation shall be in one of the following forms:

- a) dismissal of the allegations with or without conditions;
- b) a dismissal by Administrative Warning Letter (AWL) with or without conditions;
- c) a Consent Order (CO) to Administrative Supervision (CAS-a non-publishable discipline) with or without conditions that may include, but shall not be limited to, reimbursement of costs associated with the handling of the complaint;
- d) a Consent Order that shall include a publishable discipline of reprimand, probation, suspension, revocation, reclassification of licensure, other terms and conditions, and/or a fine of up to \$10,000 for each violation;
- e) the Director shall prepare the documents for disposition of a case by Informal Disciplinary Conference (AWL, CO, CAS or letter dismissing the case) and transmit the documents to the respondent with any necessary instructions for his/her completion;
- f) the complainant shall be notified by the Director of the disposition of the case;
- g) the terms and conditions of any dismissal, with or without conditions, and the terms of a Consent to Administrative Supervision, shall be confidential except that the complainant, if known, will be notified of the Administrative Supervision and the period of supervision.

1) The terms and conditions of a dismissal or a CAS may be released by legal mandate such as a court order or subpoena but is exempt from the Freedom of Information Act.

2) A licensee whose case has been dismissed, with or without conditions, or a license that is or has been placed on

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Administrative Supervision will be reported by OBRE-REAA as a license in good standing, active or non-renewed, and may be reported by the respondent as a license in good standing that has not been disciplined.

- h) The terms and conditions of a CO, upon request and payment of any applicable duplication fees, shall be released by the Director. The terms and conditions of a CO may be published in the REAA newsletter publication along with respondent's name and license number, and may be published in other forums. A CO is available to the general public.

- i) This Section shall not limit the authority of OBRE to negotiate settlement agreements with appraisers without an informal conference proceeding, or to revise the conditions of an AWP, CAS or CO, as recommended by the Conference Panel, in accordance with Section 90 of the Act.

SUBPART D: HEARINGS

Section 1455.400 Applicability

This Subpart shall apply to all hearings conducted under the jurisdiction of the Office of Banks and Real Estate, Division of Real Estate Appraisal Administration (hereinafter, the Agency) and the Commissioner of the Agency.

Section 1455.410 Institution of a Contested Case by the Agency

- a) A contested case is instituted by the Agency when a Complaint and Notice are mailed to the respondent's last known address, postage prepaid, by certified mail, by other signature restricted delivery service, or by personal delivery.

- b) A Complaint shall be in writing, signed by the Chief of Real Estate Appraisal Prosecutions and shall include a clear statement of the acts or omissions alleged to violate a statute or rule, and citation of the statute or rule.

- c) A Notice shall be in writing, shall contain the date, time, place and nature of the hearing to be held, shall refer to the Agency's rules of practice (this Subpart D and Appendices A and B), and shall comply with the Notice requirements of Section 1455.470 of this Part.

Section 1455.420 Institution of a Contested Case by Petitioner

- a) A contested case is instituted by a petitioner when a Petition for Hearing is served on the Agency in Springfield, Attention: Director of Real Estate Appraisal, postage prepaid, or delivered personally and received by the Agency in Chicago.

- b) In a case where a petitioner is seeking restoration of a certificate of registration that was revoked or suspended, the Petition for Hearing shall be in writing, signed by the petitioner, and shall set

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forth:

- 1) The number of the certificate that was suspended or revoked;
 - 2) The docket number of the case that resulted in discipline;
 - 3) The date on which the suspension or revocation was ordered;
 - 4) Whether the order that suspended or revoked the license was appealed, and if so, whether a stay of the imposition of discipline was granted by any reviewing court;
 - 5) Proof of compliance with any conditions precedent to the filing of a petition, including, but not limited to, the payment of any fine, restitution, or course completion;
 - 6) All dates and types of employment held since the discipline was imposed, including the name of the employer, the employer's address and telephone number, and the name of any supervisor;
 - 7) All continuing or remedial education completed since the discipline was ordered;
 - 8) If the petitioner has sought medical treatment, psychotherapy or counseling since the discipline was ordered, and if rehabilitation is relied upon as a basis for petitioning that the license be restored, the name and address of the treating professional and whether petitioner consents to disclosure by the professional of matters that are relevant to whether petitioner is fit to resume practice;
 - 9) Any arrests or convictions since the discipline was ordered;
 - 10) Any disciplinary actions commenced or taken against the petitioner by any other licensing or regulatory agency in this State, or any other jurisdiction;
 - 11) A certification by the petitioner that he/she is in compliance with all applicable Court Orders and laws, including, but not limited to, those regarding student loans, continuing education requirements, child support and Illinois tax liabilities; and
 - 12) Date and disposition of any other petitions for restoration filed since the discipline was ordered.
- c) The Agency may file a Notice of Intent to Deny Licensure, Notice of Intent to Refuse to Renew, or Notice of Intent to Suspend in matters alleging the registrant has been convicted of a crime, failed to file a tax return or pay Illinois taxes, child support, or Illinois guaranteed student loans, or has failed to comply with the continuing education renewal requirements and/or experience renewal requirements. The petitioner may respond to such Notices and seek to contest the decision by the Agency by the filing of a Petition for Hearing. The Petition for Hearing must be in writing, signed by the petitioner, and shall state with specificity the particular reasons why the petitioner believes that the reasons listed on the Notice are incorrect. When appropriate, the petitioner shall attach supporting documentation. The Petition for Hearing must be served upon the Agency no later than 30 days after the date of service of the Agency's Notice. Upon receipt by the Director of a properly completed Petition for Hearing, a case will be docketed and notice will be sent to the petitioner

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- setting forth the date, time, and place of the Preliminary Hearing.
- d) The petitioner, or the petitioner's counsel, must appear for the Preliminary Hearing and any subsequent Status Hearings, unless a continuance has been granted by the Administrative Law Judge for good cause upon a written Motion for Continuance.

Section 1455.430 Parties to Hearings

The parties to an administrative hearing before the Agency are the Office of Banks and Real Estate and the Respondent or Petitioner.

Section 1455.440 Joinder

In the interest of a convenient, expeditious, and complete determination of matters, the Administrative Law Judge may consolidate or sever hearing proceedings involving any number of parties, and may order additional parties to be brought in.

Section 1455.450 Form of Papers

- a) All papers filed in any proceedings, except exhibits, shall be typewritten or printed. Long quotations shall be single spaced and indented.
- b) All papers, except exhibits, shall be cut or folded so as not to exceed a width of 8 1/2 inches and a length of 11 inches and shall have inside margins not less than one inch wide. Whenever practical, all exhibits of a documentary character shall conform to these requirements.
- c) All pleadings, written motions, or notices filed in the administrative proceedings shall be dated and signed in ink by the party filing the paper or his or her attorney or representative.
- d) Pleadings, written motions, and notices shall contain the address of the party filing the paper or, if represented by an attorney, the name, business address and telephone number, including area code, of such attorney.
- e) The first page of all pleadings, written motions or notices shall conform to the Agency's pleading format. (See Appendix A or B, whichever is applicable.)

Section 1455.460 Service

- a) Service of any document may be by certified mail, personal delivery, or other signature restricted delivery service. Proof of service will be attached to the original of any document. In the absence of evidence to the contrary, the date shown on the proof of service shall be deemed the date of service.
- b) Service on the Commissioner, the Board, or the Agency is made by service on the Director at the Springfield headquarters. The date of

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service upon the Agency is either the date the document is personally delivered or deposited with the U.S. Postal Service, postage pre-paid.

- c) Service on a petitioner, registrant or respondent shall be by certified mail, personal delivery or other signature restricted delivery service to the last known address of record with the Agency, or to the last known address of the Illinois licensed attorney having filed an appearance on behalf of the respondent or petitioner, or by personal service.

- d) Service of any documents as provided in subsection (b) above will include at least two copies of the documents served.

- e) In a contested case instituted by the petitioner, the original and all copies of the initial petition will be served on the Director in Springfield. Thereafter, the petitioner will serve the original document on the Director in Springfield with a copy to the Chief of Real Estate Appraisal Prosecutions in Chicago. In all other cases, the original document will be served on the Director in Springfield with a copy to the Chief of Real Estate Appraisal Prosecutions in Chicago.

Section 1455.470 Notice

- a) Notice shall include:
 - 1) A statement of the time, place and nature of the hearing;
 - 2) A statement of the legal authority and the jurisdiction under which the hearing is held;
 - 3) Except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted;
 - 4) A statement that failure to file an answer within 20 days after service of the notice will result in default being taken against the applicant or licensee and that the license or certificate may be suspended, revoked, or placed on probationary status, or other disciplinary action may be taken, including limiting the scope, nature or extent of practice, as the Commissioner may deem proper;
 - 5) A statement that the Office of Banks and Real Estate shall afford the person an opportunity to be heard in person or by counsel.
- b) Except as otherwise provided by statute, the respondent will be given at least 30 days notice prior to the first date set for the Preliminary Hearing or hearings, as the case may be.
- c) Any change of address by the respondent or a petitioner must be in writing signed by the respondent or petitioner and served upon the Agency in Chicago.
- d) Any contention that improper notice was given will be deemed waived unless it is raised by the respondent or petitioner upon the first appearance of the respondent or petitioner.
- e) Proper notice is given by depositing a Notice with the U.S. Postal Service, either by certified mail or other signature restricted delivery service, to the last known address of the respondent or

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petitioner, or the Illinois licensed attorney having filed an appearance on behalf of the respondent or petitioner, or by personal service.

Section 1455.480 Representation

- a) A party may be represented by an attorney who is licensed in Illinois. Attorneys who appear in a representative capacity must file a written notice of appearance setting forth:
 - 1) The name, address and telephone number of the attorney; and
 - 2) The name and address of the party represented.
- b) Attorneys licensed in other jurisdictions may appear on motion.
- c) Special appearances are not recognized. The initial appearance regardless of form is deemed a general appearance.
- d) An attorney may withdraw from employment as a representative only upon written notice to the Agency that states the attorney's specific reasons for withdrawing. Such written notice of withdrawal must be served upon the party who was represented in accordance with Section 1455.470. An affidavit of service must accompany the notice of withdrawal.
- e) Any corporation, partnership, limited liability company, or other legal entity must be represented by an Illinois licensed attorney.
- f) Attorneys appearing before the Agency shall conform their conduct to the Illinois Rules of Professional Conduct, effective August 1, 1990, and as amended thereafter. Any failure to behave in a manner that permits the efficient functioning of the Agency will authorize the Board or Administrative Law Judge to take the following actions:
 - 1) limitation of evidence;
 - 2) substitution of written argument in place of oral argument;
 - 3) exclusion of an attorney from the proceeding.
- g) If any of the actions set forth in subsection (f) above are taken by the Board or Administrative Law Judge, it shall be done as a matter of record, and the Board or Administrative Law Judge shall state for the record the specific reasons for the action.

Section 1455.490 Failure to Appear

Failure to appear at the time and place set for hearing shall be deemed a waiver of the right to present evidence. After presentation by the Agency of an offer of proof that the respondent was given proper notice, the Board may deem the allegations of the complaint to be true, and shall make its recommendation. When a petitioner fails to appear, the Petition for Hearing shall be dismissed.

Section 1455.500 Amendment, Withdrawal of Complaints and Petitions for Hearing

- a) The Complaint may be amended at any time. An amended Complaint may be filed in the same manner as a Complaint, or it may be presented to the

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Board or Administrative Law Judge during the course of the hearing. A continuance shall be granted whenever the amendment materially alters the Complaint, and when the respondent demonstrates that he/she would otherwise be unable to continue to defend his or her case properly.

- b) A Complaint or Petition for Hearing may be withdrawn at any time prior to the hearing by the party who initiated it. After a hearing has begun, a Complaint may be withdrawn only upon written notice and with the permission of the Director.

Section 1455.510 Requirement of an Answer

- a) In all contested cases instituted by the Agency, the respondent shall file an Answer or otherwise plead within 20 days after the date on which the Complaint was filed. The Answer shall be in writing, signed by the respondent, and shall contain a specific response to each allegation in the Complaint. The response shall either admit or deny the allegation, or shall state that the respondent has insufficient information to admit or deny the allegation.
- b) Any Answer that states that the respondent has insufficient information to admit or deny the allegation shall be accompanied by an affidavit of the respondent attesting to the truth of this assertion.
- c) If an Answer or other responsive pleading has not been served on the Agency by the Preliminary Hearing, the Administrative Law Judge may find the respondent to be in default and order the matter to be sent to the Board on the pleadings.

Section 1455.520 Discovery

- a) Whether or not a request is made, during discovery a respondent who has filed an Answer or a petitioner shall be entitled to:
 - 1) The name and address of any witness who may be called to testify;
 - 2) Copies of any document that may be offered as evidence;
 - 3) A description of any other evidence that may be offered;
 - 4) Any exculpatory evidence in the Agency's possession. Exculpatory evidence is any evidence that tends to support the position of the respondent or petitioner or to call into question the credibility of an Agency witness; and
 - 5) A copy of all relevant investigative reports.
- b) Upon a written request served on the respondent or the petitioner, at any time after a Complaint is filed, or at any stage of the hearing, the respondent or petitioner will be required to produce within 7 days documents, books, records or other evidence that relates directly to respondent's practice of real estate appraisal or other subjects of the administrative hearing.
- c) Nothing in this Section shall prevent the parties in a contested case from agreeing to a mutual exchange of information that is more extensive than what is provided for in this Section. When all parties agree to the use of an evidence deposition, such agreement will be in

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writing and will operate as a waiver of any objection not made during the deposition, except for an objection that the testimony of the witness is not relevant to the case.

- d) Requests to Admit Facts and Genuineness of Documents shall be allowed in accordance with Supreme Court Rule 216.
- e) This Section will be construed to impose a continuing obligation upon the parties to exchange new information as it becomes available.

Section 1455.530 Subpoenas

- a) The Commissioner, Director or the Administrative Law Judge may issue subpoenas for the attendance of witnesses or production of books, records, documents or other evidence.
- b) Any respondent or petitioner seeking issuance of a subpoena will apply in writing to the Agency, Attention: Chief of Real Estate Appraisal Prosecutions, setting forth facts that purport to demonstrate that the drafted subpoena is required.
- c) Any party who, without lawful authority, in response to a subpoena or notice to produce, fails to appear or to answer any questions or produce any books, papers, records, or other documents relevant or material to such hearing shall, upon motion of the requesting party, be subject to sanctions, including, but not limited to:
 - 1) Dismissal of the case, or
 - 2) Striking of the Answer and sending the matter to the Board for deliberation and recommendation to the Commissioner based on the Notice and Complaint without a hearing, or
 - 3) Limitation or preclusion of evidence at hearing.
- d) Subpoenas shall be enforced in the same manner as subpoenas issued by the circuit courts of this State.

Section 1455.540 Prehearing Conference

- a) Upon written notice by the Administrative Law Judge in any proceeding, or upon written request by any party, the Administrative Law Judge may direct parties or their attorneys to appear at a specified time and place for a conference, prior to or during the course of hearing, for the purpose of formulating issues and considering:
 - 1) Simplification of issues;
 - 2) Limitation of issues;
 - 3) Negotiating admissions or stipulations;
 - 4) Limitation of witnesses or evidence;
 - 5) Exchange of exhibits; or
 - 6) Discussion of any other matter that may aid in efficient disposition of the case.
- b) Opportunity shall be afforded all parties to be represented by legal counsel and to dispose of the case by stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order reached before a final

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determination by the Agency shall be submitted in writing to the Administrative Law Judge and shall become effective only if approved by the Agency.

- c) The Administrative Law Judge shall make a written record of all rulings, decisions or actions taken during the course of a pre-hearing conference.

Section 1455.550 Hearings

- a) All hearings shall be public unless required by statute to be otherwise. The Administrative Law Judge may permit any person to offer oral testimony whether or not such person is a party to the proceedings.
- b) The following shall be the order of the proceedings of all hearings, subject to modification by the Administrative Law Judge for good cause:
 - 1) Presentation, argument and disposition of motions preliminary to a hearing on the merits of the matter raised in the Notice or Answer;
 - 2) Presentation of opening statements;
 - 3) Complainant's or petitioner's case in chief;
 - 4) Respondent's case in chief;
 - 5) Complainant's case in rebuttal;
 - 6) Complainant's closing statement, which may include legal argument;
 - 7) Respondent's closing statement, which may include legal argument; and
 - 8) Presentation and argument of all motions prior to final order.
- c) The Administrative Law Judge shall direct all parties to enter their appearances on the record.
- d) The Agency will arrange for a certified stenographic reporter (court reporter) to make a stenographic record of the hearing in all administrative hearings under this Part. Any person may make arrangements to obtain a copy of the stenographic record from the reporter. The Agency reserves the right to employ a certified stenographic reporter. A copy of any stenographic record made by an Agency employee may be purchased from the Agency at a cost of one dollar per page. There shall be no audio or video taping apart from any made by the certified stenographic reporter employed for those purposes by the Agency without the express consent of the Administrative Law Judge and all parties to the hearing.
- e) Corrections to the transcript of the record may be made by the Commissioner or the Administrative Law Judge.
- f) If a party, or any person at the instance of or in collusion with a party, violates any ruling of the Administrative Law Judge, the Administrative Law Judge, on motion, may enter such orders as are just, including, among others, the following:
 - 1) that further proceedings be stayed until the order or rule is

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complied with:

- 2) that the offending party be barred from filing any other pleadings relating to any issue to which the refusal or failure relates;
- 3) that the offending party be barred from maintaining any particular claim or defense relating to that issue;
- 4) that a witness be barred from testifying concerning that issue;
- 5) that, as to claims or defenses asserted in any pleading to which that issue is material, an order of default be entered against the offending party or that the offending party's pleading be dismissed without prejudice; or
- 6) that any portion of the offending party's pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered as to the issue.
- g) At the request of any party, the Administrative Law Judge may exclude all witnesses from the hearing room, except that each party or a representative of a party, in addition to legal counsel, shall be allowed to remain.

Section 1455.560 Administrative Law Judges

In any contested case, the Commissioner shall employ an attorney, licensed to practice law in Illinois, to serve as an Administrative Law Judge. The Administrative Law Judge has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order, and insure the development of a clear and complete record. The Administrative Law Judge shall have all powers necessary to conduct a hearing, including the power to:

- a) Administer oaths and affirmations;
- b) Regulate the course of hearings, set the time and place for continued hearings, fix time for filing of documents, provide for the taking of testimony by deposition if necessary, and generally conduct the proceeding according to generally recognized administrative law;
- c) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;
- d) Rule upon offers of proof and receive relevant evidence;
- e) Direct parties to appear and confer for the settlement or simplification of issues, and otherwise conduct prehearing conferences;
- f) Dispose of procedural requests or similar matters;
- g) Continue the hearing from time to time when necessary;
- h) Prepare for the Board written Findings of Fact, Conclusions of Law and Recommended Action for submission to the Commissioner.

Section 1455.570 Disqualification of an Administrative Law Judge

- a) Any interested party to a proceeding may, following notice and an

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opportunity to object, move to disqualify the assigned Administrative Law Judge on the basis of bias or conflict of interest. An adverse ruling or rulings rendered against the party or its representative in any previous matters shall not, in and of themselves, constitute sufficient grounds for disqualification under this Section. The Commissioner shall determine this issue as part of the record of the case. When an Administrative Law Judge is disqualified, or it becomes impractical for him/her to continue, another presiding officer may be assigned unless it is further shown that substantial bias will result from the assignment.

- b) No motion for disqualification shall be permitted after any substantive ruling has been made on the case by the Administrative Law Judge, unless it pertains to a conflict of interest not previously disclosed.

Section 1455.580 Examination by the Board

- a) Any member of the Board, or any Administrative Law Judge, may examine any witness.
- b) Either party may object to specific questions asked by the Board or Administrative Law Judge, but it shall not be objectionable that a question violates a technical rule of evidence. For purposes of this Subpart, hearsay is a substantive, rather than a technical, rule of evidence.

Section 1455.590 Burden of Proof

- a) The burden of proof rests with the Agency in all cases instituted by the Agency by the filing of a Complaint. A recommendation for discipline may be made by the Board or Administrative Law Judge only when the Agency establishes by clear and convincing evidence that the allegations of the Complaint are true.
- b) The burden of proof in all cases instituted by the filing of a Petition for Hearing rests with the petitioner. The petitioner must prove by a preponderance of the evidence that the license should be granted or restored, or that the intended adverse action should not be taken.

Section 1455.600 Motions

- a) Prior to the commencement of the hearing, any party may present written motions that are relevant and directed to matters of concern to the proceedings. All motions shall be filed with the Board and served upon all parties, and shall contain:
 - 1) A specific statement of the matter of concern,
 - 2) A statement of the specific relief or order sought,
 - 3) A statement of the facts and authority that support the relief or order sought.

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- b) Motions shall be acted on by the Board or an Administrative Law Judge duly appointed for the proceeding. A written motion will be disposed of by written order and on notice to all parties.

Section 1455.610 Continuances

- a) A request for continuance of a hearing shall be subject to the discretion of the hearing officer.
- 1) Such continuance may be granted, for good cause shown, provided the request is received by the hearing officer and each party or authorized representative of record not less than 5 days prior to the latest hearing date unless good cause for a continuance is shown prior to or during the hearing or between hearing dates due to the absence of material evidence, sudden unavailability of counsel, sudden illness of a party or an essential witness, or similar reasons. Such request shall be in writing, supported by an affidavit, and shall set forth alleged grounds for the request.
- 2) Oral requests for continuances shall not be granted unless made during the hearing for good cause.
- 3) Good cause includes, but is not limited to, service in the armed forces or serious illness relating to either party, that party's authorized representative of record, or essential witnesses, or sudden unavailability of counsel.
- b) A continuance, when granted, shall state a date certain, not more than 60 days from the prior scheduled hearing date, when the hearing shall reconvene.

Section 1455.620 Evidence

- a) The rules of evidence and privilege as applied to civil cases in the circuit courts of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Immaterial, irrelevant, or unduly repetitious material shall be excluded. A copy of the whole or any part of an admissible book, record, paper, or memorandum of the Agency that is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy or authenticity of such copy. Objections to evidentiary offers may be made and shall be noted in the record.
- b) Official notice may be taken of matters of which circuit courts of this State may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within the Agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda

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or data, and they shall be afforded an opportunity to contest the material so noticed. The Agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.

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Section 1455.APPENDIX A Caption for a Case Filed by the Agency

STATE OF ILLINOIS
OFFICE OF BANKS AND REAL ESTATE
REAL ESTATE APPRAISAL ADMINISTRATION DIVISION

OFFICE OF BANKS AND REAL ESTATE)
REAL ESTATE APPRAISAL ADMINISTRATION DIVISION)
of the State of Illinois,)
Complainant)
v.) No.
(NAME OF RESPONDENT))
(License Number),)
Respondent.)

COMPLAINT

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Section 1455.APPENDIX B Caption for a Case Filed by the Petitioner

STATE OF ILLINOIS
OFFICE OF BANKS AND REAL ESTATE
REAL ESTATE APPRAISAL ADMINISTRATION DIVISION

In RE the Petition for Restoration of)
(NAME OF PETITIONER)) No.
(License Number),)
Petitioner)

PETITION FOR HEARING

DEPARTMENT OF PROFESSIONAL REGULATIONS

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1) Heading of the Part: Professional Boxing and Wrestling Act

2) Code Citation: 68 Ill. Adm. Code 1370

3) Section Numbers: Proposed Action:

1370.315 New Section
1370.325 Amendment

4) Statutory Authority: Professional Boxing and Wrestling Act [225 ILCS 105].

5) A Complete Description of the Subjects and Issues Involved: Public Act 90-580 provides for the the Department of Professional Regulation to license closed circuit telecasts, while Public Act 89-578 directs the Department, in consultation with the Board, to define "ultimate fighting." The rules previously provided for the licensure of closed circuit events and the selling of tickets to those in attendance. In this era, however, with satellite technology now widely available, virtually any bar or restaurant can obtain these telecasts. This proposed rulemaking brings the rules into conformity with the reality of how these events are distributed commercially. The General Assembly also acted to ban "ultimate fighting" in the State of Illinois; this rulemaking defines "ultimate fighting" so that the ban can be enforced.

6) Will these proposed amendments replace emergency rules currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may submit written comments to:
Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813

All written comments received within 45 days of this issue of the Illinois

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Register will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Licensed boxing and wrestling promoters and those wishing to exhibit closed circuit telecasts.
B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appear in this issue of the Illinois Register on page 14346.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Illinois Speech-Language Pathology and Audiology Practice Act

2) Code Citation: 68 Ill. Adm. Code 1465

3) Section Numbers: Proposed Action:

1465.20	Amendment
1465.35	Amendment
1465.36	Amendment
1465.40	Amendment
1465.60	Amendment
1465.70	Amendment
1465.80	Amendment
1465.85	New Section
1465.95	New Section

4) Statutory Authority: Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking will bring rules for the licensure of speech-language pathologists and audiologists into conformity with Public Act 90-0069, and the reauthorization of the Illinois Speech-Language Pathology and Audiology Practice Act, effective July 8, 1997. Licensees will be required to complete 10 hours of continuing education for the October 31, 1999 renewal and 20 hours of continuing education for every renewal thereafter. This rulemaking provides for sponsor approval for individuals and entities wanting to provide continuing education and also sets forth the provisions by which licensees may obtain continuing education. Professional Conduct Standards have been set forth in these rules. For approved programs, the clinical practicum is increased from 300 to 350 hours, and the requirements for supervision are revised.

6) Will these proposed amendments replace emergency rules currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

DEPARTMENT OF PROFESSIONAL REGULATION

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Jean A. Courtney
Department of Professional Regulation
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813
Fax: 217/782-7645

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing speech-language pathology or audiology services and those wishing to provide continuing education.

B) Reporting, bookkeeping or other procedures required for compliance: It shall be the responsibility of a sponsor to provide each participant in a CE program with a certificate of attendance or participation. The sponsor shall maintain attendance records for at least five years.

C) Types of professional skills necessary for compliance: Speech-language pathology or audiology skills are required for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
 SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1465

THE ILLINOIS SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY PRACTICE ACT

Section

1465.10 Application for Licensure Under Section 7 of the Act (Repealed)
 1465.20 Approved Programs
 1465.30 Professional Experience
 1465.35 Supervision
 1465.36 Evaluation and Management Related to Speech-Language Pathology and Audiology

1465.40 Application for Licensure

1465.50 Examination

1465.60 Endorsement

1465.70 Renewal

1465.75 Fees

1465.80 Restoration

1465.85 Continuing Education

1465.90 Granting Variances

1465.95 Professional Conduct Standards

AUTHORITY: Implementing the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Emergency rules adopted at 13 Ill. Reg. 1616, effective January 20, 1999, for a maximum of 150 days; emergency expired June 19, 1989; adopted at 13 Ill. Reg. 13882, effective August 22, 1989; amended at 18 Ill. Reg. 12794, effective August 4, 1994; amended at 19 Ill. Reg. 11477, effective July 28, 1995; emergency amendment at 21 Ill. Reg. 11785, effective August 7, 1997, for a maximum of 150 days; emergency expired January 3, 1998; amended at 22 Ill. Reg. 3879, effective February 5, 1998; amended at 22 Ill. Reg. _____, effective _____.

Section 1465.20 Approved Programs

a) The Department of Professional Regulation (the Department) shall approve a speech-language pathology or audiology program if it meets the following minimum criteria:

- 1) The institution is legally recognized and authorized by the jurisdiction in which it is located to confer the appropriate degree.
- 2) The institution has a faculty that consists of a sufficient number of full-time instructors to ensure educational obligations to the student are fulfilled. The faculty must have demonstrated

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competence as evidenced by appropriate degrees in their area(s) of teaching from professional colleges or institutions.

- 3) The program director must be trained in speech-language pathology, in audiology or in speech and hearing science.
- 4) The institution has an integrated curriculum plan that includes at least the following subject areas in professional education (60 semester hours required):

A) Basic Communication Processes

- i) Anatomic and physiological bases
- ii) Physical bases and processes of the production and perception of speech, language and hearing
- iii) Linguistic and psycholinguistic variables related to normal development and use of speech, language and hearing

B) Speech-Language Pathology/Audiology

- i) Speech and language disorders
- ii) Audiology
- iii) Auditory pathology
- iv) Auditory habilitation/rehabilitation

- 5) The institution has a clinical practicum that provides students with 350 390 hours of clinical experience supervised by a licensed speech-language pathologist or audiologist or a person who is ASHA certified. The experience shall take place in at least 2 clinical settings (i.e., academic program, medical facility, community clinics).

b) In determining whether a program should be approved, the Department shall take into consideration, but not be bound by, accreditation or approval by the American Speech-Language-Hearing Association.

c) The Department has determined that all speech-language pathology and audiology master's degree programs accredited or approved by the Educational Standards Board of the American Speech-Language-Hearing Association as of January 1, 1994, meet the minimum criteria set forth in this Section and are, therefore, approved.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 1465.35 Supervision

a) Pursuant to Section 12(a) of the Act, supervision of students means that the supervisor is on-site (but not necessarily in the same room as the student) whenever the student is performing practices normally done by a licensed speech-language pathologist or audiologist. Supervision of students requires that direct supervision must be done no less than 25% of the time for treatment and 50% of the time for diagnostics. The supervisor is directly responsible to the client for all actions of that student. For purposes of this Part, direct supervision means present in the room.

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- b) Supervision requirements will vary depending on the qualifications of an appropriately trained person pursuant to Section 12(b) of the Act.
- 1) If a person has completed the academic and practicum work for a master's degree in speech-language pathology or audiology (regardless of whether the individual is in the process of completing 9 months of supervised professional experience or whether the individual has finished that experience and is waiting for his/her application for licensure to be processed), the supervision shall meet the requirements set forth in Section 1465.30(d).
 - 2) If a person has completed a training course other than that culminating in a master's degree and if that individual is not exempt pursuant to Section 12(a), (c), (d) or (e):
 - A) Evaluation services as defined in Section 1465.36 shall not be performed except that screening for purposes of identification may be performed by appropriately trained persons. Screening for purposes of this Section means a pass/fail procedure to identify individuals who require further audiologic or speech-language assessment;
 - B) Management services, as defined in Section 1465.36, must be supervised as follows:
 - i) The treatment plan shall be developed by the supervisor;
 - ii) During the first 90 workdays of providing treatment services, at least 30% of the patient/client contact ~~the--first--5--to--10--sessions--that--constitute--a--minimum--of--10--hours--of--treatment~~ for each client shall be directly supervised by the licensed speech-language pathologist or audiologist;
 - iii) Subsequent to the first 90 workdays ~~10--hours~~, at least ~~1--of--every--4--sessions~~ 20% of the patient/client contact shall be under direct supervision by the licensed speech-language pathologist or audiologist; and
 - iv) Documentation shall be generated by the supervisor to verify the work of the supervisee. Copies of the A report shall ~~will~~ be kept by the supervisor and the supervisee.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1465.36 Evaluation and Management Related to Speech-Language Pathology and Audiology

For purposes of this Part, evaluation and management related to the practice of speech-language pathology and audiology shall be defined as follows:

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- a) Speech-Language Pathology
- 1) Evaluation under speech-language pathology means the application of nonmedical methods and procedures for the identification, measurement, testing and appraisal of communication development, disorders or disabilities of speech, language, voice, swallowing and other speech, language and voice related disorders.
 - 2) Management under speech-language pathology means habilitation, rehabilitation, counseling, consulting, directing or conducting programs that are designed to modify disorders related to communication development, and disorders or disabilities of speech, language, voice or swallowing. This may also include training in the use of augmentative communication systems, communication variation, cognitive rehabilitation, nonspeech language production and comprehension.
- b) Audiology
- 1) Evaluation under audiology means the application of nonmedical methods and procedures for the identification, measurement, testing and appraisal of hearing or vestibular function.
 - 2) Management under audiology means habilitation, rehabilitation, counseling, consulting, directing or conducting of programs that are designed to modify disorders related to hearing loss or vestibular malfunction. This includes training in the use of amplification, including dispensing of hearing aids. This also includes removal of cerumen for the purpose of performing evaluation or management procedures.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1465.40 Application for Licensure

- a) Each applicant for a speech-language pathology or audiology license shall file an application with the Department, on forms provided by the Department. The application shall include:
 - 1)a) Certification, on forms provided by the Department, of a master's degree from a program approved by the Department in accordance with Section 1465.20;
 - 2)b) Passage of the National Examinations in Speech-Language Pathology and/or Audiology (NESPA) set forth in Section 1465.50 or certification from the American Speech-Language-Hearing Association pursuant to Section 8(e) of the Act. Exam scores shall be submitted directly to the Department from the testing service;
 - 3)c) Certification, on forms provided by the Department, of completion of the equivalent of 9 months of full-time supervised professional experience as set forth in Section 1465.30 of this Part;
 - 4)d) A complete work history since completion of a master's

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~~baccalaureate~~ degree program; and

- 5) ~~e~~ The required fee as set forth in Section 14(a)(1) of the Act.
- b) The Department, upon recommendation of the Board, will accept a Certificate of Clinical Competence in Speech-Language Pathology or Audiology awarded by the American Speech-Language-Hearing Association's Clinical Certification Board, in lieu of the documents required in subsections (a)(2) and (3) above.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1465.60 Endorsement

- a) An applicant for a license as a speech-language pathologist or audiologist who is licensed under the laws of another state or territory of the United States shall file an application with the Department, on forms provided by the Department, which includes:

- 1) Certification, on forms provided by the Department, of a master's degree from a program approved by the Department in accordance with Section 1465.20;
- 2) Certification, on forms provided by the Department, of completion of the equivalent to 9 months of full-time supervised professional experience as set forth in Section 1465.30 of this Part;
- 3) Proof of successful completion of the examination set forth in Section 1465.50 of this Part;
- 4) The Department, upon recommendation of the Board, will accept a Certificate of Clinical Competence in Speech-Language Pathology or Audiology awarded by the American Speech-Language-Hearing Association's Clinical Certification Board, in lieu of the documents required in subsections (a)(2) and (3) above; ~~in-lieu of-the-certifications-required-in-subsections-(1)-(2)-and-(3) above--the-applicant-may-submit-verification-of-holding-current certification---from---the---American---Speech-Language-Hearing Association--that--the--person--is--a--certified--speech-language pathologist--or--audiologist~~;
- 5) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and any state in which the applicant is currently licensed, stating:
 - A) The time during which the applicant was licensed; and
 - B) Whether the file of the applicant contains any record of any disciplinary actions taken or pending; and
- 6) ~~Examinations--taken-and-examination--scored--received~~;
- 6) A complete work history since completion of a master's ~~baccalaureate~~ degree program; and
- 7) The required fee as set forth in Section 1475.75(a)(7) of this Part ~~14(a)(2)-of-the-Act~~.

DEPARTMENT OF PROFESSIONAL REGULATION

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- b) The Department may require additional information to determine if the requirements in the state or territory of original licensure were substantially equivalent to the requirements then in effect in Illinois at the time of original licensure or to determine whether the requirements of another state or territory together with education and professional experience qualifications of the applicant are substantially equivalent to the requirements in Illinois at the time of application. The Department, upon recommendation of the Board, shall determine substantial equivalency based on, but not limited to, certification from the American Speech-Language-Hearing Association; education, training, and experience, including, but not limited to, whether he/she has achieved special honors or awards, has had articles published in professional journals, has written textbooks relating to speech-language-hearing; and any other attribute which the Director accepts as evidence that such applicant has outstanding and proven ability in speech-language-hearing. The Department shall either issue a license by endorsement to the applicant or notify him/her of the reasons for the denial of the application.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1465.70 Renewal

- a) Every license issued under the Act shall expire on October 31 of odd numbered years. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee. For the October 31, 1999 renewal, in order to renew a license, a licensee will be required to complete 10 hours of continuing education in accordance with Section 1465.85. For every renewal thereafter, in order to renew a license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85.
- b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1465.80 Restoration

- a) A person seeking restoration of a license that has expired for 5 years or less shall have the license restored upon payment of the fees pursuant to Section 1465.75 of this Part ~~14(a)(1)-of-the-Act~~. After October 31, 1999, in order to renew a license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85.

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- b) A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the fee pursuant to Section 1465.75 of this Part ~~1465.75 of the Act~~. After October 31, 1999, in order to renew a license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85.
- c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department, together with the fee required by Section 1465.75 of this Part ~~1465.75 of the Act~~ and be scheduled for an interview before the Board. After October 31, 1999, in order to renew a license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85. The person shall also submit either:
- 1) Sworn evidence of active practice in another United States jurisdiction. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of said active practice; or
 - 2) An affidavit attesting to military service as provided in Section 11(f) of the Act; or
 - 3) Proof of successful completion of the NESPA examination in accordance with Section 1465.50 of this Part within one year prior to of application for restoration.
- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of lack of information, discrepancies or conflicts in information given or a need for clarification, the person seeking restoration of a license shall be required to:
- 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Department, an applicant shall have the license restored.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1465.85 Continuing Education

a) Continuing Education Hours Requirements

- 1) For the October 31, 1999 renewal and every renewal thereafter, a licensee will be required to complete 10 hours of continuing education. After October 31, 1999, in order to renew a license, a licensee will be required to complete 20 hours of continuing education in accordance with this Section.
- 2) A prerenewal period is the 24 months preceding October 31 of each

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- odd-numbered year.
- 3) CE requirements shall be the same for licensed speech-language pathologists and licensed audiologists. Individuals who hold both licenses will only be required to complete 20 hours of continuing education (10 hours for the October 31, 1999 renewal). One CE hour shall equal one clock hour of attendance. After completion of the initial CE hour, credit may be given in one-half hour increments.
 - 5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.
 - 6) Speech-language pathologists and audiologists licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.
 - 7) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.
- b) Approved Continuing Education (CE)
- 1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at, or participation in, a program or course ("program") that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below, except for those activities provided in subsections (b)(2), (3) and (4) below.
 - 2) CE credits may be earned for completion of a correspondence course that is offered by an approved sponsor who meets the requirements set forth in subsection (c) below. Each correspondence course shall include an examination.
 - 3) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of speech-language pathology or audiology related courses that are a part of the curriculum of a college, university or graduate school. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
 - 4) CE credit may be earned for authoring papers, publications, dissertations or books and for preparing presentations and exhibits in the field of speech-language pathology and audiology. The preparation of each published paper, book chapter or professional presentation dealing with speech-language pathology or audiology may be claimed for a maximum of 5 hours of CE credit. A presentation must be before an audience of speech-language pathologists, audiologists or related professionals. Five credit hours may be claimed for only the first time the information is published or presented.
- c) Approved CE Sponsors and Programs
- 1) Sponsor, as used in this Section, shall mean:

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- A) American Speech-Language-Hearing Association and its affiliates;
 B) American Academy of Audiology and its affiliates;
 C) Illinois Speech-Language-Hearing Association and its affiliates.
 D) Any other accredited school, college or university, State agency, or any other person, firm, or association that has been approved and authorized by the Department in accordance with subsection (c)(2) below to coordinate and present continuing education courses and programs in conjunction with this Section.
- 2) An entity, not listed in subsection (c)(1)(A), (B) or (C) above, seeking approval as a CE sponsor shall submit an application, on forms supplied by the Department, along with a \$500 application fee. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The application shall include:
- A) Certification:
- i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) below and all other criteria in this Section;
 - ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and shall provide a certificate of attendance as set forth in subsection (c)(9) below;
 - iii) That, upon request by the Department, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance;
 - iv) That each sponsor shall submit to the Department written notice of program offerings, including program offerings of subcontractors, 30 days prior to course dates. Notice shall include the description, location, date and time of the program to be offered;
- B) A copy of a sample program with faculty, course materials and syllabi.
- 3) All programs shall:
- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of speech-language pathology or audiology;
 - B) Foster the enhancement of general or specialized speech-language pathology or audiology practice and values;
 - C) Be developed and presented by persons with education and/or

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- experience in the subject matter of the program;
- D) Specify the course objectives, course content and teaching methods to be used; and
 - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.
- 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the approved sponsor. The presenter of the program may also be identified, but should be identified as a presenter. When a licensed sponsor subcontracts with a presenter, the licensed sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.
- 6) All programs given by approved sponsors shall be open to all licensed speech-language pathologists and licensed audiologists and not be limited to members of a single organization or group.
- 7) To maintain approval as a sponsor, each shall submit to the Department by October 31 of each odd-numbered year a renewal application, a \$250 fee and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given by the sponsor and by any subcontractor.
- 8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
- A) The name, address and license number, if applicable, of the sponsor;
 - B) The name and address of the participant;
 - C) A brief statement of the subject matter;
 - D) The number of hours attended in each program;
 - E) The date and place of the program; and
 - F) The signature of the sponsor.
- 10) The sponsor shall maintain attendance records for not less than 5 years.
- 11) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
- 12) Upon the failure of a sponsor to comply with any of the foregoing

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requirements, the Department, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Department receives assurances of compliance with this Section.

- 13) Notwithstanding any other provision of this Section, the Department or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.

d) Certification of Compliance with CE Requirements

- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b) above.

- 2) The Department may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Department's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

- 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

e) Continuing Education Earned in Other Jurisdictions

- 1) If a licensee has earned CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, prior to participation in the program or 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

- 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$25 processing fee plus a \$10 per hour late fee not to exceed \$150. The Board shall review and recommend approval and disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

- f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Department shall restore the license upon payment of the required fee as provided in Section 1465.75 of this Part.

g) Waiver of CE Requirements

- 1) Any renewal applicant seeking renewal of a license without having

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fully complied with these CE requirements shall file with the Department a renewal application along with the required fee set forth in Section 1465.75 of this Part, a statement setting forth the facts concerning non-compliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Department, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the Department shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;

B) An incapacitating illness documented by a statement from a currently licensed physician;

C) Any other similar extenuating circumstances.

- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section, shall be deemed to be in good standing until the final decision on the application is made by the Department.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 1465.95 Professional Conduct Standards

The Department may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action based upon its finding of "unethical, unauthorized, or unprofessional conduct" within the meaning of Section 16 of the Act, which is interpreted to include, but is not limited to, the following acts or practices:

- practicing, condoning, facilitating, or otherwise being involved in, any form of discrimination. The licensee should act to prevent and eliminate discrimination against any person or group on the basis of race, color, sex, sexual orientation, age, religion, national origin, marital status, political belief, mental or physical handicap, or any other preference or personal characteristic, condition or status;
- engaging in any action that violates or diminishes the civil or legal rights of clients;
- engaging in the sexual exploitation of clients, students or supervisees;
- engaging in or condoning sexual harassment, which is defined as

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deliberate or repeated comments, gestures or physical contacts of a sexual nature;

- e) Failing to offer all pertinent facts regarding services rendered to the client prior to administration of professional services. The purpose of informed consent is to insure a client's complete access to information pertaining to professional services. Examples include, but are not limited to, fees for services, length of treatment and utilization of consultants. The client's signature indicating receipt of pertinent information is strongly encouraged;
- f) Failing to take appropriate steps to protect the privacy of a client and avoid unnecessary disclosures of confidential information;
- g) Performing, or pretending to be able to perform, professional services beyond one's scope of practice and one's competency;
- h) Failing to inform clients of the use of all experimental methods of treatment; safety precautions shall be adhered to by the licensee;
- i) Failing to establish and maintain client records;
- j) Deceptive, misleading or false advertising. Licensees should claim or imply only professional credentials possessed and are responsible for correcting any misrepresentations of their credentials by others. Professional credentials include highest relevant degrees, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, professional membership, or any other credential that might indicate to the public specialized knowledge or expertise in speech-language pathology or audiology;
- k) Submission of fraudulent claims for services to any person or entity including, but not limited to, health insurance companies or health service plans or third party payors;
- l) Knowingly providing services to a client when the ability to practice is impaired. Causes of impairment may include, but are not limited to, the abuse of mood altering chemicals and physical or mental problems;
- m) Permitting a student or supervisee under his/her supervision or control to perform, or permitting the student or supervisee to hold himself or herself out as competent to perform, professional services beyond the trainee's or intern's level or education, training and/or experience;
- n) Allowing the student or supervisee to violate the rights of clients, permitting a trainee to violate confidentiality standards and failing to ensure that the client is informed that he/she is being treated by a student or supervisee;
- o) Failing to inform prospective research subjects or their authorized representative fully of potential serious after effects of the research or failing to remove the after effects as soon as the design of the research permits;
- p) The Department hereby incorporates by reference "Code of Ethics, 1995" of the American Speech-Language-Hearing Association, January 1, 1994, approved by the American Speech-Language-Hearing Association, 10801 Rockville Pike, Maryland 20852, and the "Code of Ethics" of the American Academy of Audiology, 8201 Greensboro Drive, Suite 300,

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McLean, Virginia 22102, with no later amendments or editions.

(Source: Added at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Proposed Action:
140.40 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These proposed amendments provide changes in the Department's prior approval requirements for providers of medical services or items. These changes are being made in response to audit findings that the case name and case identification number, which identify the household, are no longer necessary in the prior approval process. Those pieces of information were utilized in the prior approval process before the implementation of the Department's automated medical information system. The current automated prior authorization process tracks individual recipients and only the individual's name and recipient number are relevant. Section 140.40 is therefore being updated accordingly.

Changes are also being made in subsection (c) to specify the minimum elements of information that are required when a provider submits a prior approval request. These latter changes allow for a degree of flexibility in the prior approval process.

Implementation of the proposed amendments will not result in any budgetary changes.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.451	Amendment	May 1, 1998 (22 Ill. Reg. 7534)
140.461	Amendment	June 26, 1998 (22 Ill. Reg. 11005)
140.463	Amendment	June 26, 1998 (22 Ill. Reg. 11005)

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in which Interested Persons may comment on this

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proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones, Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Ave. E., 3rd Floor
Springfield, Illinois 62763
217/524-3215

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not for profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Providers of medical services and items will be affected by this rulemaking. The Department is unsure whether or not any of the affected entities may qualify as small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

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SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

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- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
- 140.20 Submittal of Claims
- 140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
- 140.22 Magnetic Tape Billings
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited

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Assignment of Vendor Payments

Record Requirements for Medical Providers

Audits

Emergency Services Audits

Prohibition on Participation, and Special Permission for Participation

Publication of List of Terminated, Suspended or Barred Entities

False Reporting and Other Fraudulent Activities

Prior Approval for Medical Services or Items

Prior Approval in Cases of Emergency

Limitation on Prior Approval

Post Approval for Items or Services When Prior Approval Cannot Be Obtained

Recipient Eligibility Verification (REV) System

Reimbursement for Medical Services Through the Use of a C-13 Invoice

Voucher Advance Payment and Expedited Payments

Drug Manual (Recodified)

Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

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- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
- 140.95 Hospital Services Trust Fund
- 140.96 General Requirements (Recodified)
- 140.97 Special Requirements (Recodified)
- 140.98 Covered Hospital Services (Recodified)
- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)

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140.374	Alternatives (Recodified)
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140.376	Utilization, Case-Mix and Discretionary Funds (Repealed)
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140.391	Definitions (Recodified)
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at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10462, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18508, effective October 22, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990;

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amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6334, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11101, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment

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repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. _____, effective _____.

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.40 Prior Approval for Medical Services or Items

- a) The Department may impose prior approval requirements, as specified by rule, to determine the essentialness of medical care provided in

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- individual situations. Such requirements shall be based on recommendations of technical and professional staff and advisory committees.
- b) In general, in order for prior approval to be granted, items and services must be:
- 1) non-experimental,
 - 2) appropriate to the client's needs,
 - 3) necessary to avoid institutional care, and
 - 4) medically necessary to preserve health, alleviate sickness, or correct a handicapping condition.
- c) Providers are responsible for requesting prior approval for medical services or items. Prior approval requests must include at minimum show:
- 1) the case name,
 - 2) patient name,
 - 3) case identification number,
 - 4) recipient number,
 - 5) patient age, address, and whether or not the patient resides in a group care facility,
 - 6) identification of the practitioner prescribing or ordering the item or service,
 - 7) diagnosis,
 - 8) description of item or service,
 - 9) treatment plan,
 - 10) how long the service or item will be needed, and
 - 11) purchase or rental cost.
- d) To the extent possible, the request should show how the item or service is expected to correct or help the condition, and why the requested treatment plan is better than any other plan commonly used to deal with similar diagnoses or conditions. Anything unique to the medical condition or living arrangement affecting the choice of a recommended treatment plan or item should be explained.
- e) A written notice of disposition of the request for prior approval will be sent to the client within the time limits prescribed below. If the notice of disposition is not sent within the applicable time limit, prior approval will be granted automatically. Oral notification will be given only when a request for medical transportation is approved.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT(S)

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1) Heading of the Part: Commercial Driver Training Schools

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

2) Code Citation: 92 Ill. Adm. Code 1060

The full text of the Proposed Amendment begins on the next page.

3) Section Numbers:

1060.70
Amendment
1060.120
Amendment
1060.130
Amendment
1060.180
Amendment
1060.190
Amendment

4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)] and Article VI of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Art. 6].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to incorporate recently enacted legislation.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objective: This rulemaking will have no effect on local units of government.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Secretary of State will fully consider all comments received within 45 days of the date this notice is published. All comments must be in writing and should be sent to:

Mark A. Novak
Assistant Counsel to the Secretary
2701 S. Dirksen Parkway
Springfield, IL 62723
217/782-5356

12) Regulatory Flexibility Analysis: After careful consideration, the Secretary of State does not feel this proposed rulemaking will affect any types of small businesses and the proposed rule has not been submitted to the Small Business Office of the Department of Commerce and Community Affairs.

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1060
COMMERCIAL DRIVER TRAINING SCHOOLS

Section	Definitions
1060.5	Unlicensed Person May Not Operate Driver Training School
1060.10	Requirements for School Licenses
1060.20	Driver Training Schools Names
1060.30	Refund of Application Fees
1060.40	School Locations and Facilities
1060.50	Driver Training School Student Instruction Record
1060.60	Driver Training School Course of Instruction
1060.70	Driver Training School Contracts
1060.80	Inspection of School Facilities
1060.90	Licenses
1060.100	Safety Inspection of Driver Training School Motor Vehicles
1060.110	Requirements to Obtain and Retain a Driver Training Instructor's License
1060.120	Examination for Driver Training Instructor
1060.130	Temporary Permit
1060.140	Driver Training School Responsibility for Employees
1060.150	Solicitation of Students and Pupils for Commercial Driver Training Instruction
1060.160	Hearings
1060.170	Teen Accreditation
1060.180	Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License and Instructor's License
1060.190	Commercial Driver's License and Endorsement Accreditation
1060.200	

AUTHORITY: Implementing Article IV of the Illinois Driver Licensing Law of the Illinois Motor Vehicle Code [625 ILCS 5/Ch. 6, Art. IV] and authorized by Section 2-104(b) of the Illinois Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 2, 1972; codified at 6 Ill. Reg. 12697; transferred from 23 Ill. Adm. Code 252.50 (State Board of Education) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411] at 11 Ill. Reg. 1631, effective December 31, 1986; amended at 11 Ill. Reg. 17244, effective October 13, 1987; amended at 12 Ill. Reg. 13203, effective August 1, 1988; amended at 12 Ill. Reg. 19756, effective November 15, 1988; amended at 14 Ill. Reg. 8658, effective May 18, 1990; recodified at 17 Ill. Reg. 20006, effective November 3, 1993; amended at 18 Ill. Reg. 7786, effective May 9, 1994; amended at 20 Ill. Reg. 3861, effective February 14, 1996; amended at 22 Ill. Reg. _____, effective _____.

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Section 1060.70 Driver Training School Course of Instruction

- a) A minimum of 6 six-667 hours of classroom instruction and 6 six-667 hours of behind-the-wheel instruction must be offered to each student who enrolls in any driver training school. If a student declines the classroom instruction, the school shall secure a signed statement from the student on forms prescribed by the Department, wherein such student states that he has been offered the 6 six-667 hours of classroom instruction and declines the instruction. Such statements shall be kept with the student's instruction records.
- b) Classroom instruction shall be made available at least once each calendar month for students currently enrolled in the school and shall include instruction in safe driving practices in the operation of motor vehicles.
- c) The minimum of 6 six-667 hours of behind-the-wheel instruction shall consist of actual driving practice while in a motor vehicle. Instruction given while the vehicle is parked shall not be recorded or be considered as classroom instruction. Behind-the-wheel instruction must only be given in a motor vehicle owned or leased by the Driver Training School driver-training-school which has been safety inspected by the Illinois Department of Transportation and has insurance which has been certified by the Department. If a student declines the behind-the-wheel instruction, the school shall secure a signed statement from the student, on forms prescribed by the Department, wherein such student states he has been offered the 6 hours of behind-the-wheel instruction and declines the instruction. Such statements shall be kept with the student's instruction records.
- d) The minimum of 6 six-667 hours of classroom instruction shall be offered to all students enrolled for a regular course in any driver training school. Time spent by a student operating a driving simulator under the supervision of a licensed instructor may be counted as classroom instruction time, provided the student receives at least 4 four-447 hours of lectures or other instruction on safe driving practices.
- e) Students enrolled in a short review course need not comply with the minimum requirements stated above; however, no driver training school shall offer a short review course to any student who has never had a valid driver's license or a course in driver training and instruction which meets the minimum requirements prescribed above.
- f) Behind-the-wheel driving lessons, observation lessons, travel time, or any combination thereof, shall not exceed 3 three-337 hours in length for any student in any 24 hour period, excluding time spent at a Driver Services facility Driver's-License-Examination-Facility for testing purposes. If more than one student is present in the training car (e.g., one student behind-the-wheel, one observing), the total combined time should not exceed 3 three-337 hours, excluding time spent at a Driver Services Facility Driver's-License-Examination-Facility for testing purposes. A driver training school providing

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training for a commercial driver's license is exempt from this requirement.

- 9) Each driver training school must submit an "Enhanced Instruction Report" on a form prescribed by the Department showing the name, address, and number of behind-the-wheel instruction periods taken for every student who has had 25 hours of behind-the-wheel instruction. A supplementary "Enhanced Instruction Report" must be submitted after each additional 10 ten--10 hours of instruction and a final report must be submitted within 5 five--15 days after any such student completes his instruction. A driver training school providing training for a commercial driver's license is exempt from this requirement.

- h) A student must possess a current or valid instruction permit or valid driver's license unless exempted as provided by law before each and every behind-the-wheel lesson.

- i) The commercial driver training school instructor shall be responsible for verifying that each student has a valid instruction permit before each and every behind-the-wheel lesson.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1060.120 Requirements to Obtain and Retain a Driver Training Instructor's License

- a) The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, a driver training instructor's license:

- 1) To any person who has not held a valid driver's license for any 2 two--12 year period preceding the date of application for an instructor's license;
- 2) To any person who has been convicted of 3 three--13 or more offenses against traffic regulations governing the movement of traffic within the 2 two--12 year period immediately preceding the date of application for an instructor's license;
- 3) To any person who has had 2 two--12 or more convictions of a violation which caused an auto accident within the 2 two--12 year period immediately preceding the date of application for an instructor's license;
- 4) To any person who has been convicted of driving under the influence of alcohol and/or other drugs, pursuant to Section 11-501 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501], leaving the scene of a fatal accident, pursuant to Section 11-401 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-401], reckless homicide, pursuant to Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3], reckless driving, pursuant to Section 11-503 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-503], or any sex or drug related offense within 10 years

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prior to date of application;

- 5) To any person who has failed to pass the written, vision, or road test required by the Department for applicants for a driver training instructor's license;
- 6) To any person who is physically unable to safely operate a motor vehicle or to safely instruct or train others in the operation of a motor vehicle as determined by a licensed physician pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)]. An application/medical examination form provided by the Secretary of State shall be completed by the applicant and physician. The physician's medical examination form shall contain the applicant's ability to safely operate a motor vehicle. The form shall also contain an indication of the person's eyesight, hearing, mental alertness, reflexes, and whether the person has normal use of his limbs and feet. The physician must also provide his address and the date and place of the examination. Those persons who are solely classroom instructors shall comply with subsection (d) of this Section;
- 7) To any person who fails to properly and fully complete an application for such license or otherwise indicates that he is unqualified to receive a driver training instructor's license;
- 8) To any person who is not employed or associated with a driver training school licensed by the Department as required pursuant to Section 6-417 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-417];
- 9) To any person who is currently a salaried or contractual employee of the Secretary of State as mandated by the guidelines of the Secretary of State's Office Policy Manual which states that an employee shall not advocate or promote specific professional or commercial services to the public in matters under the jurisdiction of the Office of the Secretary of State;
- 10) To any person who fails to supply a complete set of fingerprints to the Department as required pursuant to Section 6-411(b) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(b)];
- 11) To any person who is not at least 21 years of age and a resident of the State of Illinois;
- 12) To any person who has failed to comply with the provisions of these Rules pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)];
- 13) To any person who is not of good moral character as required pursuant to Section 6-411(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(a)]. In making a determination of good moral character, the Department is not limited to, but may consider the following:
 - A) if the person has been convicted of a crime; or
 - B) the age of the person at the time any criminal conviction

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- was entered; or
- C) the length of time that has elapsed since the person's criminal conviction; or
- D) the relationship of any crime convicted of to the ability to teach as a driver training instructor; or
- E) any conviction of rehabilitation after a criminal conviction; or
- F) opinions of community member concerning the applicant;
- 14) To any person whose suspension under Section 11-501.1 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501.1] has terminated within 5 years prior to date of application;
- 15) To any person who has not completed a 30 hour course or an equivalent college or university course approved by the Director of the Department.

A) Any person possessing a current and valid commercial driver training instructor's license, or who is renewing a commercial driver training license issued by the Secretary of State's Office, shall be exempt from this requirement.

B) A driver training school whose instructor provides training to individuals under the age of 18 years is exempt from this requirement and must complete the mandatory 48 hour course as required in Section 1060.180 of this Part.

b) If an applicant indicates that he has been convicted of a felony, the applicant shall submit a signed release allowing the Department to obtain any information regarding the applicant's arrest and conviction, thereby enabling the Department to determine the fitness of an applicant to be licensed as an instructor.

c) No driver training instructor shall provide behind-the-wheel instruction in a vehicle which is classified higher than the classification of such instructor's driver's license. An instructor may hold two classifications; one classification from Classes A, B, C and D, and one classification from Classes L and M. An instructor holding a Class A commercial driver's license may teach students to drive all Class A, B, C, and D vehicles. An instructor holding a Class B commercial driver's license may teach students to drive all Class B, C, and D vehicles. An instructor holding a Class C commercial driver's license may teach students to drive all Class C and D vehicles. However, an instructor holding a non-commercial driver's license may only teach students who do not require a commercial driver's license. An instructor holding a Class M license may teach students to drive all Class L and M vehicles.

d) Any person who is physically unable to safely operate a motor vehicle but meets all other requirements to be a driver training instructor shall be able to teach only the classroom portion of the driver training course upon receipt of a doctor's statement indicating the person is physically able to teach in the classroom. The person shall also pass the vision test, as provided in 92 Ill. Adm. Code 1030.70,

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the written test, as provided in 92 Ill. Adm. Code 1030.80, the highway safety sign test, and submit all applicable fees as set out in Section 6-411 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411] before being issued an instructor's license for classroom instruction only.

e) All instructors who have ceased to be employed or associated with the designated school on their license must submit a new complete instructor's license application and application fee before being licensed to instruct at another school or in the same school after such cessation.

f) If a driver training instructor license is not renewed within one year after the previous year's expiration date, the applicant shall be required to take examinations pursuant to Section 1060.130 of this Part.

g) An instructor shall not engage in fraudulent activity as defined in Section 1060.5 of this Part.

h) During the course of instruction in either classroom or behind-the-wheel, an instructor shall not engage in activity unrelated to normal driving instruction that puts the student in danger.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1060.130 Examination for Driver Training Instructor

a) Each individual desiring to be licensed as a driver training instructor for a specific driver training school, must pass a written test, traffic control test, vision test, and a driving test which will be offered by the Department at periodic intervals.

1) The written test shall consist of questions dealing with:

- A) Chapter 95 1/2 of the Illinois Revised Statutes;
- B) Safe Driving Practices;
- C) Operation of Motor Vehicles;
- D) Teaching Methods; and
- E) Commercial Driver Training Schools (92 Ill. Adm. Code 1060).

2) In order to pass the written test which consists of 100 true-false and multiple choice questions, an individual shall answer at least 85 of the questions correctly.

3) The individual shall meet the criteria established in 92 Ill. Adm. Code 1030.70 in order to pass the vision test.

4) The individual shall meet the criteria established in 92 Ill. Adm. Code 1030.85 in order to pass the road test. The Department shall not issue a driver training instructor's license to any person who is physically unable to safely operate a motor vehicle or to safely instruct or train others in the operation of a motor vehicle as determined by a licensed physician pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)]. The physician's medical

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report shall contain medical information which relates to the driver's medical ability to safely operate a motor vehicle. The form shall also contain an indication of the person's eyesight, hearing, mental alertness, reflexes, and whether the person has normal use of his limbs and feet. The physician must also provide his address and the date and place of the examination. Those persons who are solely classroom instructors shall comply with Section 1060.150(d) of this Part.

- 5) The individual shall not miss any questions on the official traffic control device test in order to pass the test.
- 6) Commercial driver accredited instructor applicants must take an additional written test which consists of 25 twenty-five--(25) multiple choice and true/false questions, with a pass rate of 21.
- b) Each applicant will be given a maximum of 3 three--(3) opportunities in any 12 month period ~~a--calendar--year~~ to pass the driver training instructor's examination. An applicant for a driver training instructor's license may be allowed to attempt the road test a second time in the same day during normal business hours of the Driver Services facility if he/she fails the first attempt to pass the road test. However, if the applicant demonstrates a danger to the public safety during his/her first attempt to pass a road test, he/she will not be allowed to make a second or subsequent attempt during the same day. An applicant will not be allowed to make a third attempt to pass a road test on the same day in which he/she failed the previous attempt. Individuals who have failed their third examination must wait at least 1 one--(1) year from the date of the third failure before making a new application.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1060.180 Teen Accreditation

- a) Accreditation of the School -- Each commercial driver training school which desires to offer instruction to those under the age of 18 must be accredited by the Secretary of State through the Department of Driver Services before such instruction can be offered or advertised.
 - 1) Upon receipt of proper application for accreditation, the Secretary of State will investigate the school and verify the application. A Secretary of State employee shall contact the school and make an appointment to visit the school's facilities. At the time of the visit, the Secretary of State employee shall verify that the school meets the standards set forth for commercial driving schools in Section 6-401 of the Illinois Vehicle Code [625 ILCS 5/6-401]. In addition, the school shall meet the standards for commercial driver school teen accreditation that are set forth in Section ~~Sections~~ 1060.180(b) through (f) of this Part. These standards shall be furnished to

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the school by the Secretary of State before the visit if the school requests them. If all qualifications and standards are met, the school shall be certified to offer instruction to students under the age of 18.

- 2) The accreditation of each school is renewable upon the expiration date of the school license provided all qualifications and standards are met and provided the school has been in compliance with all rules.
- 3) Only qualified teaching personnel may teach persons under age 18. Exception: in event of an emergency situation wherein the only available teacher terminates his or her employment, or must take a leave of absence, while a course remains incomplete, other licensed instructors may take over and complete the course. No new courses may be started before properly qualified teaching personnel are again available. In all such cases the Department must be given prior approval. Approval shall not be given until the Department has checked the roster of instructors at the school and determined that no other teacher licensed by the Secretary of State to teach students under 18 is available at the school.
- b) Required Facilities -- All teen accredited driver training schools must provide all classroom and vehicle facilities and equipment as prescribed in the driving school laws and regulations as administered by the Secretary of State. Those who desire to provide instruction for persons under the age of 18 must comply with Section 1060.150 of this Part. Schools in operation at the time that this Part becomes effective may continue to use their present classroom facilities as long as they continue to occupy them.

- 1) Required Course of Instruction
 - A) One ~~(1)~~ copy of an outline covering the topics to be taught in the classroom phase of instruction, and 1 one--(1) copy of an outline of the behind-the-wheel phase of instruction constructed along the lines of the recommended "Illinois Driver Education Curriculum." Said outlines must meet the approval of the Director of the Department.
 - i) Accredited teen driver training schools must follow the approved classroom and behind-the-wheel course outlines that are submitted to the Director of the Department at the time of application for certification. The Department shall determine compliance with this provision by unannounced inspections of teen classes and records. At least one such inspection shall take place every 2 two--(2) months.
 - ii) If such classroom or behind-the-wheel outlines are substantially changed, revised outlines must be submitted in duplicate to the Director of the Department for approval. A letter shall be sent to

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the driver training school informing them if their classroom or behind-the-wheel outline has been approved.

- B) Instructional materials shall be available and shall include one of the following: a 16 mm sound projector and screen, video equipment with films processed on video tape, a film strip or slide projector and films which correspond with the outline described in paragraph (b)(2)(A) of this Section.
- C) A professional library containing an assortment of reference and textbooks, pamphlets and other publications which is available for the use of students or teachers.

c) Teacher Qualifications

- 1) Classroom Teacher Qualifications -- Each teen accredited driver training school must have at least one classroom instructor employed who meets the standards of Section 6-411 of the Illinois Vehicle Code [625 ILCS 5/6-411], pertaining to classroom instructors who teach approved driver education courses to students under 18 years of age.

A) A classroom driver training instructor teaching the teen accredited program must comply with Sections 1060.120 and 1060.130 of this Part.

- B) The instructor must possess good physical, mental health. An application - physical exam form will be provided by the Secretary of State which must be completed by the instructor and a physician.

C) The instructor must qualify under one of the following requirements:

- i) Be a certified teacher meeting the requirements of 23 Ill. Adm. Code 252.40(b)(3). (Minor -- 16 semester hours)
- ii) Hold a baccalaureate degree, have 1 one--(1) year of teaching experience in primary, secondary or higher education and complete a 48 hour course approved by the Director of the Department.
- iii) Complete the 48 hour course or an equivalent college or university course approved by the Director of the Department and provide written documentation verifying they have had 2 have--six--(6) months of experience teaching behind-the-wheel to adults.
- iv) Be a certified teacher holding a valid teaching certificate and complete a 48 hour course or an equivalent college or university course approved by the Director of the Department.

- 2) Behind-the-wheel Teacher Qualifications -- Behind-the-wheel teachers of driving shall be those who have passed an objective type written examination based upon current textbooks and the Motor Vehicle Code; a practical test regarding their ability to drive and to instruct others; and investigation of their moral

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character and driving record as required in Section 6-411 (a) through (f) of the Illinois Vehicle Code [625 ILCS 5/6-411(a) through (f)] and supplementary regulations.

A) A driver training instructor teaching the teen accredited behind-the-wheel program must comply with Sections 1060.120 and 1060.130 of this Part.

B) The instructor must possess good physical and mental health. An application - physical exam form will be provided by the Secretary of State which must be completed by the instructor and a physician.

C) The instructor must qualify under one of the following requirements:

- i) Be a certified teacher meeting the requirements of 23 Ill. Adm. Code 252.40(b)(3).
- ii) Hold a baccalaureate degree and have 6 six--(6) months of experience in teaching behind-the-wheel to adults.
- iii) Have 7 seven--(7) years of uninterrupted teaching experience in a commercial driver training school.
- iv) Be licensed by the Secretary of State, complete the 48 hour course or an equivalent college or university course approved by the Director of Driver Services, and provide written documentation verifying they have had 2 have--six--(6) months of experience teaching behind-the-wheel to adults.
- v) Be a certified teacher holding a valid teaching certificate and complete a 48 hour course or an equivalent college or university course approved by the Director of the Department.

- 3) Classroom and/or behind-the-wheel driver education teachers are to be assigned not more than 12 eight--(8) clock hours of instructional work daily. No teen instruction, classroom or behind-the-wheel can take place between the hours of 10:00 p.m. and 3:00 a.m.

d) Student Qualifications

- 1) A driver training school or driver training instructor licensed by the Secretary of State shall comply with all of the requirements of Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5] prior to requesting a certificate of completion from the Secretary of State.

2) A superintendent or chief school administrator may waive the requirements contained within Section 6-408.5 of the Illinois Vehicle Code if he/she deems it to be in the best interests of the student or dropout. The State Board of Education may, at their discretion, by rule or regulation, establish guidelines for the waiver of the requirements of Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5].

- 3) Prior to a driver training school or driver training school instructor requesting a certificate of completion for providing

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~~any-classroom-or-behind-the-wheel-instruction-to~~ a student, the driver training school or driver training instructor must verify that the student is enrolled in school and has received a passing grade in at least ~~8~~ ~~eight--(8)~~ courses during the ~~2~~ ~~two--(2)~~ semesters. Verification of a student's eligibility to obtain a certificate of completion from the Secretary of State shall be by one of the following methods:

- A) obtain written documentation on a form prepared or approved by the Secretary of State stating the student has received a passing grade in at least ~~8~~ ~~eight--(8)~~ courses during the previous ~~2~~ ~~two--(2)~~ semesters;
 - B) obtain written waiver from a superintendent or school administrator on a form prepared or approved by the Secretary of State;
 - C) obtain written verification on a form prepared or approved by the Secretary of State stating the student is enrolled in a home school;
 - D) obtain copies of the student's report card and/or transcript for the previous ~~2~~ ~~two--(2)~~ semesters indicating a passing grade in at least ~~8~~ ~~eight--(8)~~ courses during the previous ~~2~~ ~~two--(2)~~ semesters.
- 4) Verification of eligibility for any person who has dropped out of school and has not yet attained the age of 18 years shall be by one of the following methods:
- A) obtain written documentation verifying the dropout's enrollment in GED or an alternative education program or obtain a copy of the dropout's GED certificate;
 - B) obtain written verification that the student prior to dropping out had received a passing grade in at least ~~8~~ ~~eight--(8)~~ courses during the ~~2~~ ~~two--(2)~~ previous semesters last ending prior to requesting a certificate of completion; or
 - C) obtain written consent on a form prepared or approved by the Secretary of State from the dropout's parents or guardian and the regional superintendent.

5) Students enrolled in a driver training school shall be informed in writing of the eligibility requirements of Section 6-408.5 of the Illinois Vehicle Code at the time of registration which shall be documented in the student's file.

6) The driver training school and/or driver training school instructor shall maintain a copy and make available for inspection all written documentation required by this Section.

7) Classroom instruction -- for persons under age 18 years

- 1) No classroom instruction shall be provided to any person who is enrolled as a student in any public or non-public secondary school unless the restrictions contained in Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5] are complied with.
- 2) Classroom instruction shall include not less than 30 class hours.

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Instructional periods are to be no longer than ~~2~~ ~~two--(2)~~ hours daily with meetings distributed regularly throughout the minimum of four complete weeks. The maximum number of students cannot exceed 30 per class for classroom instruction unless the size of the classroom exceeds 350 square feet, then a maximum of 35 students shall be allowed.

- 3) Classroom instruction shall include subject matter relating to the rules of the road, safe driving practices, pedestrian safety, driver responsibility, theory of driving, defensive driving techniques, behavioral characteristics of drivers, auto insurance and financial responsibility, development of perception for driving, emergency situation procedures, the use of automobile safety devices, and the effects of alcohol and/or other drugs on driving.
- 4) Each classroom course must have a definite starting date and completion date. Late registrations shall not be accepted beyond the third day of the course, at which time the course must be closed to further enrollments.
- 5) Late registrants and absentees shall be given make-up instruction, assignments. No school shall permit the student to be absent from more than ~~4~~ ~~four--(4)~~ class sessions without requiring the student to re-enroll in a later course and to start over.
- 6) The teaching facilities must provide adequate, comfortable seating for students. Lighting must be adequate and the maintenance (housekeeping) of the room orderly.
- 7) A textbook on driver education must be in the possession of each student for the duration of the course, to be used as a regular part of the course content, and consistent with the recommended course outline.
- 8) Audio-visual materials shall be used as a supplement to the teacher's presentation but not as a replacement. Reference materials are to be available to the students and their use assured by assignments. All assignments are to be made in advance of due dates and should include outside reading as well as preparation for testing.
- 9) A regular schedule of classroom testing shall be followed. Student progress in acquaintance with information, data, and knowledge is to be periodically evaluated. Criteria for passing or failing the course must be evident to the students and successful completion clearly defined.
- 10) Each student shall be informed prior to the time instruction begins of the character and amount of any and all fees or charges made for enrollments or registration, tuition, use of equipment, text and reference materials, supplies, and any service, equipment, or materials provided by the commercial driving school.
- 11) Instruction for each student in the class shall begin on the date

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and location designated by advertisement and continue throughout the designated period unless the course is cancelled and the student is refunded any fees already paid.

- 12) A listing of students enrolled in the classroom shall be sent to the Department of Driver Services Blue Slip Unit within 3 three days after the third day of classroom instruction on forms provided by the Secretary of State. A certificate will not be issued to anyone whose name has not been submitted on this form signed by an authorized official of the school.

f) Laboratory Instruction -- for persons under age 18 years.

- 1) Laboratory instruction shall not begin until such time as the student is enrolled in a classroom program of driver education and possesses the basic information required for safe operation of a vehicle in traffic. At least 4 four hours of classroom instruction must be given before behind-the-wheel lessons are started.

- 2) Each student must have in his or her possession when engaged in vehicle operation a valid instruction permit issued by the Secretary of State.

- 3) Not less than two nor more than four students are to occupy the car with an instructor when instruction is in progress. Student driving experiences shall be for periods of not more than 90 minutes for each student per session. The accumulation of 6 six hours of practice driving shall be distributed regularly throughout a minimum of two complete weeks. Although observation time in the car may not be counted as practice driving, a minimum of 6 six hours is required. The only exception shall be when a parent requests that observers be excluded because the student is disturbed by having an observer in the car.

- 4) Each student shall receive a minimum of 6 six full hours of behind-the-wheel instruction. There can be no allowance for any absences without actual make-up time spent behind-the-wheel. Satisfactory completion denotes that each student has the competencies to be certified by the school for issuance of a certificate.

- 5) Lesson time or practice driving time may not be used to call for, deliver or dismiss other students to their homes or pick up points.

- 6) Practice driving instruction shall include actual experience in starting, stopping, shifting, turning, backing, parking, steering, and emergency situation procedure in a vehicle equipped according to Section 6-410 of the Illinois Vehicle Code [625 ILCS 5/6-410].

g) Records

- 1) Records shall be maintained by schools which substantiate daily attendance, lesson time, and periodic evaluation of each student. Also recorded shall be the beginning and ending dates of classroom as well as laboratory instruction. Students are to be

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identified by their social security numbers as well as by name, address and other personal information. Such records are to be on file in the office of the management for a period of 3 three years.

- 2) A Secretary of State form shall be used for submitting the names of those students who have satisfactorily fulfilled the requirements of the complete course in driver education and who qualify for a certificate. The form shall be signed by an authorized official of the school.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1060.190 Denial, Cancellation, Suspension, And Revocation Of Commercial Driver Training School's License And Instructor's License

- a) The Secretary of State shall deny or cancel a commercial driver training school license for failing to correct after being served written notice, giving five business days to correct any violation of the following regulations and laws governing commercial driver training schools:

- 1) a violation of any requirements in Sections 1060.50 of this Part and Sections 6-403, 6-404, 6-405, 6-406, and 6-407 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-403, 6-404, 6-405, 6-406, and 6-407] relating to the physical facilities of the school;
- 2) a violation of any requirements in Sections 1060.60 and 1060.200(e)(1) of this Part and Sections 6-408 and 6-408.5 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-408 and 6-408.5] relating to the maintenance of driver training school records;
- 3) a violation of any requirements in Section 1060.110 of this Part and Section 6-410 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-410] relating to the safety inspection and requirements of a driver training school's motor vehicles;
- 4) failure of school to own or lease a vehicle;
- 5) failure to pay the fees required by Section 6-402 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402];
- 6) for a violation of Section 1060.20(a)(2) of this Part relating to the employment of a licensed driver training instructor;
- 7) for any violation of the requirements of Section 1060.30 of this Part relating to driver training school names and business organizational status;
- 8) for any violation of the requirements of the Business Corporation Act of 1983 [805 ILCS 5];
- 9) for a violation of the requirements of a vehicle used for

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instruction to have a safety inspection sticker as required by Section 1060.110 of this Part and Section 6-410 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-410];

10) for a violation of the requirement of a vehicle used for instruction to have a current and valid registration on the vehicle used for driver training that is retained in the vehicle as required by Section 1060.110(d)(9) of this Part.

b) A commercial driver training school's license shall be immediately canceled:

1) for a violation of the requirements of Section 6-402(e) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(e)];

2) for a violation of the requirements of Section 6-402(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(d)];

3) for a violation of the requirements of Section 1060.90 of this Part.

c) If a branch license is canceled because the branch facility does not meet the standards found in Section 1060.50 of this Part, the school's license shall not be canceled but the branch shall remain closed until the branch facility comes into compliance.

d) In order to be eligible to be reinstated following cancellation, the school shall reapply for a license, pay the required application fee of \$250 for a school as required by Section 6-402(i) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(i)] and demonstrate compliance with the provisions of this Part for which the cancellation was issued (e.g., proof of insurance).

e) The Secretary of State shall cancel a commercial driver training school instructor's license for failing to correct after being served written notice, giving five business days to correct, any violation of Section 6-418 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-418].

f) A commercial driver training school instructor's license shall be immediately canceled:

1) upon notification to the Commercial Driver Training Section that the instructor is no longer employed by the school or no longer has a valid driver's license;

2) for failure to produce records after a written warning and demand to produce the records within 5 ~~five~~(5) business days.

g) In order to be eligible to be reinstated following cancellation, the instructor shall reapply for a license; pay the required fee of \$35 for an instructor as required by Section 6-411(g) of the Illinois Vehicle Code [625 ILCS 5/6-411(g)]; and demonstrate compliance with the provisions of this Part for which cancellation was issued (e.g., proof of insurance).

h) The Secretary of State shall suspend a commercial driver training school license up to 1 one(~~1~~) year depending on the severity of the

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violation if the school violates any of the following regulations and laws governing commercial driver training schools:

1) for any violation of this Part;

2) for any violation of Section 6-407, 6-408, 6-408.5 or 6-409 of the Illinois Vehicle Code [625 ILCS 5/6-407, 6-408, 6-408.5 or 6-409];

3) if a school accredited to teach teens pursuant to Section 1060.180 of this Part fails to keep records on teenage clients as required in Section 1060.180(g), the school shall have its teen accreditation as found in Section 1060.180(a) suspended, but not their school license;

4) if a school accredited to teach teens pursuant to Section 1060.180 of this Part violates any of the provisions in Section 1060.180(d), the school shall have its teen accreditation as found in Section 1060.180(a) suspended, but not its school license.

i) A school which wishes to have a license reinstated following suspension shall reapply and pay the application fee of \$250 as required by Section 6-402(i) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(i)].

j) The Secretary of State shall suspend a commercial driver training school instructor's license up to 1 one(~~1~~) year depending upon the severity of the infraction for any violation of this Part.

k) An instructor who wishes to have a license reinstated following suspension shall reapply and pay \$35 required by Section 6-411(g) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(g)].

l) The Secretary of State shall revoke a commercial driver training school license if the school violates any of the following regulations and laws governing commercial driver training schools:

1) if the school engages in or permits any type of fraudulent activity, either with reference to a student or the Secretary of State;

2) for selling, assigning, bartering, or trading any school or instructor license issued by the Secretary of State;

3) for remaining in operation if the school's license has been suspended, canceled, revoked, or not renewed;

4) for having unauthorized possession of application forms or questionnaires used by the Driver Services Department of the Secretary of State's Office in conjunction with administering driver's license examinations;

5) for making a false statement or knowingly concealing a material fact in the application for a school license;

6) for a subsequent violation of Section 6-407 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-407];

7) for repeated violations of this Part or Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625

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- ILCS 5/Ch. 6, Art. IV, 1-7
- 8) a violation of Section 11-501.1 of the Illinois Vehicle Code [625 ILCS 5/11-501.1] relating to driving under the influence of drugs and/or alcohol;
- 9) if the owner(s) of the commercial driver training school has received a suspension of driving privileges under Section 11-501.1 of the Illinois Vehicle Code [625 ILCS 5/11-501.1] that has terminated within the last 10 years prior to the date of application.
- m) A revocation shall be for an indefinite period. After one-4 1+ year the school may apply for reinstatement by requesting a formal administrative hearing as found in 92 Ill. Adm. Code 1001.Subpart A.
- n) The Secretary of State shall revoke a commercial driver training school instructor's license if the instructor violates any of the following regulations and laws governing commercial driver training schools:
- 1) If he/she is convicted of the following:
 - A) a violation of Section 11-501 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501] relating to driving under the influence of drugs and/or alcohol.
 - B) a violation of Section 11-503 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-503].
 - C) a violation of Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3] relating to reckless homicide.
 - D) a violation of Section 11-401 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-401].
 - E) any sex or drug related offense.
 - 2) If he/she engages or permits any type of fraudulent activity either with reference to a student or the Secretary of State.
 - 3) A violation of Section 6-420(5) of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/6-420(5)].
 - 4) If he/she knowingly aids or assists an applicant in obtaining a driver's license by fraudulent procedure.
 - 5) If he/she has in possession unauthorized application forms or questionnaires used by the Driver Services Department in conjunction with administering driver's license examinations.
 - 6) For repeated violations of this Part or Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. IV].
 - 7) If he/she has received a suspension of driving privileges under Section 11-501.1 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501.1], which has terminated within the last 10 ten-440+ years prior to the date of application.
 - o) A revocation of an instructor's license shall be for an indefinite period of time. After 1 one-44+ year, the instructor may apply for reinstatement by requesting a formal administrative hearing as found

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- in 92 9+ Ill. Adm. Code 1001.Subpart A.
- p) An owner's or instructor's license shall be revoked for lack of good moral character. In making a determination of good moral character, the Department is not limited to, but may consider the following:
- 1) If the owner or instructor has been convicted of a crime; or
 - 2) The relationship of any crime convicted of to the ability to operate a driver training school; or
 - 3) Opinions of the community members concerning the owner or instructor; or
 - 4) The length of time that has elapsed since the owner's or instructor's last criminal conviction; or
 - 5) If the owner or instructor has been convicted with an offense and the Secretary of State has received sufficient evidence that the owner or instructor has been convicted of an offense in regard to a student or the Secretary of State.
- A) In determining whether action should be taken, there must be sufficient evidence that the owner or instructor has committed an offense in regard to a student or the Secretary of State. "Sufficient evidence" shall be defined as but not limited to:
- i) copies of court documents showing the conviction of an owner or instructor of an offense in regard to a student or the Secretary of State;
 - ii) affidavits of eyewitnesses or others with first hand knowledge concerning the matters which indicate offenses in regard to students or the Secretary of State;
 - iii) any other competent evidence, including but not limited to: police reports, transcripts of preliminary hearings or Grand Jury proceedings, and other documents deemed important and probative by the State's Attorney.
- B) If sufficient evidence is received from the State's Attorney and indicates that a person has committed an offense in regard to a student or Secretary of State, and that these offenses, currently awaiting court disposition, involved a student or Secretary of State, the owner's or instructor's license shall be revoked.
- C) If the owner or instructor, whose commercial driver training school license has been revoked under this Section, is adjudicated "guilty" by the court systems, the revocation previously entered on his/her record in accordance with this Section shall stand. This action does not preclude further suspension and/or revocation of their commercial driver training school license under another Section of the Illinois Vehicle Code.
- D) If the owner or instructor, whose commercial driver training school license has been revoked under this Section, is

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

adjudicated "not guilty" by the court system, the revocation previously entered on their license in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of their commercial driver training school license under another Section of the Illinois Vehicle Code.

E) If the individual whose commercial driver training school license has been revoked under this Section is granted a disposition of "court supervision" by the court system, the revocation previously entered in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of their commercial driver training school license under another Section of the Illinois Vehicle Code.

F) If the charges against the owner or instructor, whose commercial driver training school license has been revoked under this Section, are reduced or altered in any manner such that the offense(s) for which the owner or instructor is convicted is not an offense in regard to a student or Secretary of State, the revocation previously entered in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of a commercial driver training school license under another Section of the Illinois Vehicle Code.

G) An individual whose commercial driver training school license has been revoked pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001.

q) The Secretary of State shall have the discretionary authority to issue warning letters to commercial driver training schools or instructors for violations of the regulations and laws governing commercial driver training schools as found in this Part and Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code, prior to the cancellation, suspension, or revocation of the school's or instructor's license.

r) Prior to the cancellation, suspension, or revocation of a school's or instructor's license, the Secretary may schedule a conference with the individual whose commercial license has been found to be in violation and administrative consultation will occur at this time. If the violation(s) are not corrected within a reasonable time, the Administrator shall take corrective measures upon the issuance of an "Advisory Letter for Correction" to the individual and/or school. If the violations are not corrected a warning letter shall be issued and the disciplinary process will begin pursuant to the regulations and laws governing commercial driving schools as found in this Part and Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code.

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NOTICE OF PROPOSED AMENDMENT(S)

(Source: Amended at 22 Ill. Reg. _____, effective _____)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED REPEALERS

- 1) Heading of the Part: Joint Rules of the Illinois Environmental Protection Agency, the Illinois Department of Public Health and the Illinois Department of

- 2) Code Citation: 35 Ill. Adm. Code 183

- 3) Section Numbers: Adopted Action:

183.105 Repealed
183.110 Repealed
183.115 Repealed
183.120 Repealed
183.125 Repealed
183.130 Repealed
183.131 Repealed
183.132 Repealed
183.133 Repealed
183.134 Repealed
183.135 Repealed
183.140 Repealed
183.145 Repealed
183.150 Repealed
183.155 Repealed
183.160 Repealed
183.165 Repealed
183.170 Repealed
183.205 Repealed
183.210 Repealed
183.220 Repealed
183.225 Repealed
183.230 Repealed
183.231 Repealed
183.235 Repealed
183.240 Repealed
183.245 Repealed
183.250 Repealed
183.255 Repealed
183.305 Repealed
183.310 Repealed
183.315 Repealed
183.320 Repealed
183.325 Repealed
183.330 Repealed
183.335 Repealed
183.340 Repealed
183.345 Repealed
183.350 Repealed
183.355 Repealed
183.360 Repealed

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED REPEALERS

183.365 Repealed
183.370 Repealed
183.405 Repealed
183.406 Repealed
183.410 Repealed
183.415 Repealed
183.420 Repealed
183.425 Repealed
183.430 Repealed
183.435 Repealed
183.440 Repealed
183.445 Repealed
183.450 Repealed
Appendix A Repealed
Appendix B Repealed

- 4) Statutory Authority: Section 1401(1)(d) of the Safe Drinking Water Act (42 USC 300f(1)(D)), Subpart C of the National Primary Drinking Water Regulations (40 CFR 141.21 through 141.30 (1991)), the Illinois Environmental Protection Act [415 ILCS 5] and the Civil Administrative Code of Illinois [20 ILCS 56].

- 5) Effective Date of Rulemaking: July 15, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? Yes

- 8) A copy of the adopted repealer, including material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 23, January 2, 1998

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Difference(s) between proposal and final version: None

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes

- 13) Will this rulemaking replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rulemaking: The purpose of this rulemaking is to repeal joint environmental laboratory certification rules. The Illinois

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED REPEALERS

Environmental Protection Agency, the Illinois Department of Public Health and the Illinois Department of Nuclear Safety have adopted certification rules that are found in each agency's regulations. The separate certification rules will better meet the programmatic needs of the agencies and address the concerns of the regulated community and data users.

- 16) Information and questions regarding these adopted repealers shall be directed to:

John P. Anderson
Manager, Division of Laboratories
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217/782-6455

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED REPEALERS

- 1) Heading of the Part: Joint Rules of the Illinois Environmental Protection Agency, the Illinois Department of Public Health and the Illinois Department of Nuclear Safety: Certification and Operation of Environmental Laboratories

- 2) Code Citation: 35 Ill. Adm. Code 195

- 3) Section Numbers: Adopted Action:
Not applicable Not applicable

- 4) Statutory Authority: Implementing and authorized by Section 1401(1)(d) of the Safe Drinking Water Act (42 U.S.C. 300 f(1)(D)), Subpart C of the National Primary Drinking Water Regulations (40 CFR 141.21 through 141.30 (1991)), the Illinois Environmental Protection Act (415 ILCS 5) and the Civil Administrative Code of Illinois (20 ILCS 5).

- 5) Effective Date of Rulemaking: July 15, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) A statement that a copy of the adopted rule, amendment, or repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: January 9, 1998 (22 Ill. Reg. 1088)

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Difference(s) between proposal and final version: None

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No. The Joint Committee on Administrative Rules did not issue an agreement letter of for this Part.

- 13) Will this rulemaking replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rulemaking: The Department is repealing this Part in response to similar action taken by all 3 agencies involved in the certification of environmental laboratories. All 3 agencies have found that placing these regulations in 3 separate Parts will facilitate their timely amendment and will serve the affected public better in the future. To this end, all 3 agencies will propose and adopt separate rulemakings for certification and operation of environmental laboratories prior to the

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED REPEALERS

adoption of this proposed repealer for Part 183. This Part is a cross reference to the joint rulemaking under Part 183 between the IEPA, IDPH and this Department. The Department has adopted Part 406 which replaces its portion of Part 183 and this Part.

- 16) Information and questions regarding this adopted repealer shall be directed to:

Name: Thomas J Carlisle
Address: Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
Telephone: 217/785-9884(voice) 217/782-6133(TDD)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Organic Material Emission Standards and Limitations for the Chicago Area
- 2) Code Citation: 35 Ill. Adm. Code 218
- 3) Section Numbers: 218.940 Adopted Action: Amended
- 4) Statutory Authority: 415 ILCS 5/27
- 5) Effective Date of Amendments: ~~July 1, 1993~~
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this proposed rule contain incorporations by reference? No
- 8) Availability Statement: A copy of the adopted amendments, including any material incorporated by reference is on file in the Board's Chicago office and is available for public inspection.
- 9) Notice of proposal published in Illinois Register: 22 Ill. Reg. 1091 (January 9, 1998)
- 10) Has JCAR issued a statement of objection to these rules? No
- 11) Differences between proposal and final version: In Section 218.940(g), changed "polystyrene" to "polystyrene".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency rule currently in effect? No
- 14) Are there any other proposed amendments pending on this Part? No
- 15) Summary and purpose of amendments: A more complete description of this regulation may be found in the Board's May 7, 1998, second notice opinion and order, and the final opinion and order of July 8, 1998, both in docket R98-16.
- The amendment adds a new Section to the air pollution control regulations establishing a site-specific rule excluding W.R. Grace & Company - Connecticut from the control requirements of 35 Ill. Adm. Code 218.Subpart QQ.
- 16) Information and questions regarding the adopted amendments should be directed to:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

John Knittle
Illinois Pollution Control Board
West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Requests for copies of the rule or the Board's July 8, 1998, opinion and order should be addressed to Victoria Agyeman at the address immediately preceding this paragraph. Ms. Agyeman may be contacted by telephone at 312.814.3620. All requests should reference docket R98-16.

The full text of the Adopted Amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE B: AIR POLLUTION

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER C: EMISSIONS STANDARDS AND LIMITATIONS FOR STATIONARY SOURCES

PART 218

ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS
FOR THE CHICAGO AREA

SUBPART A: GENERAL PROVISIONS

Section
218.100 Introduction
218.101 Savings Clause
218.102 Abbreviations and Conversion Factors
218.103 Applicability
218.104 Definitions
218.105 Test Methods and Procedures
218.106 Compliance Dates
218.107 Operation of Afterburners
218.108 Exemptions, Variations, and Alternative Means of Control or
Compliance Determinations
218.109 Vapor Pressure of Volatile Organic Liquids
218.110 Vapor Pressure of Organic Material or Solvent
218.111 Vapor Pressure of Volatile Organic Material
218.112 Incorporations by Reference
218.113 Monitoring for Negligibly-Reactive Compounds
218.114 Compliance with Permit Conditions

SUBPART B: ORGANIC EMISSIONS FROM STORAGE AND LOADING OPERATIONS

Section
218.119 Applicability for VOL
218.120 Control Requirements for Storage Containers of VOL
218.121 Storage Containers of VPL
218.122 Loading Operations
218.123 Petroleum Liquid Storage Tanks
218.124 External Floating Roofs
218.125 Compliance Dates
218.126 Compliance Plan (Repealed)
218.127 Testing VOL Operations
218.128 Monitoring VOL Operations
218.129 Recordkeeping and Reporting for VOL Operations

SUBPART C: ORGANIC EMISSIONS FROM MISCELLANEOUS EQUIPMENT

Section
218.141 Separation Operations

POLLUTION CONTROL BOARD

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218.142 Pumps and Compressors
 218.143 Vapor Blowdown
 218.144 Safety Relief Valves

SUBPART E: SOLVENT CLEANING

Section

218.181 Solvent Cleaning in General
 218.182 Cold Cleaning
 218.183 Open Top Vapor Degreasing
 218.184 Conveyorized Degreasing
 218.185 Compliance Schedule (Repealed)
 218.186 Test Methods

SUBPART F: COATING OPERATIONS

Section

218.204 Emission Limitations
 218.205 Daily-Weighted Average Limitations
 218.206 Solids Basis Calculation
 218.207 Alternative Emission Limitations
 218.208 Exemptions from Emission Limitations
 218.209 Exemption from General Rule on Use of Organic Material
 218.210 Compliance Schedule
 218.211 Recordkeeping and Reporting
 218.212 Cross-Line Averaging to Establish Compliance for Coating Lines
 218.213 Recordkeeping and Reporting for Cross-Line Averaging Participating Coating Lines

218.214 Changing Compliance Methods
 218.215 Wood Furniture Coating Averaging Approach
 218.216 Wood Furniture Coating Add-On Control Use
 218.217 Wood Furniture Coating Work Practice Standards

SUBPART G: USE OF ORGANIC MATERIAL

Section

218.301 Use of Organic Material
 218.302 Alternative Standard
 218.303 Fuel Combustion Emission Units
 218.304 Operations with Compliance Program

SUBPART H: PRINTING AND PUBLISHING

Section

218.401 Flexographic and Rotogravure Printing
 218.402 Applicability
 218.403 Compliance Schedule
 218.404 Recordkeeping and Reporting

POLLUTION CONTROL BOARD

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218.405 Lithographic Printing: Applicability
 218.406 Provisions Applying to Heatset Web Offset Lithographic Printing Prior to March 15, 1996
 218.407 Emission Limitations and Control Requirements for Lithographic Printing Lines On and After March 15, 1996
 218.408 Compliance Schedule for Lithographic Printing on and After March 15, 1996

218.409 Testing for Lithographic Printing On and After March 15, 1996
 218.410 Monitoring Requirements for Lithographic Printing
 218.411 Recordkeeping and Reporting for Lithographic Printing

SUBPART Q: SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING PLANT

Section

218.421 General Requirements
 218.422 Inspection Program Plan for Leaks
 218.423 Inspection Program for Leaks
 218.424 Repairing Leaks
 218.425 Recordkeeping for Leaks
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 218.427 Alternative Program for Leaks
 218.428 Open-Ended Valves
 218.429 Standards for Control Devices
 218.430 Compliance Date (Repealed)
 218.431 Applicability
 218.432 Control Requirements
 218.433 Performance and Testing Requirements
 218.434 Monitoring Requirements
 218.435 Recordkeeping and Reporting Requirements
 218.436 Compliance Date

SUBPART R: PETROLEUM REFINING AND RELATED INDUSTRIES; ASPHALT MATERIALS

Section

218.441 Petroleum Refinery Waste Gas Disposal
 218.442 Vacuum Producing Systems
 218.443 Wastewater (Oil/Water) Separator
 218.444 Process Unit Turnarounds
 218.445 Leaks: General Requirements
 218.446 Monitoring Program Plan for Leaks
 218.447 Monitoring Program for Leaks
 218.448 Recordkeeping for Leaks
 218.449 Reporting for Leaks
 218.450 Alternative Program for Leaks
 218.451 Sealing Device Requirements
 218.452 Compliance Schedule for Leaks
 218.453 Compliance Dates (Repealed)

POLLUTION CONTROL BOARD

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SUBPART S: RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

Section
218.461 Manufacture of Pneumatic Rubber Tires
218.462 Green Tire Spraying Operations
218.463 Alternative Emission Reduction Systems
218.464 Emission Testing
218.465 Compliance Dates (Repealed)
218.466 Compliance Plan (Repealed)

SUBPART T: PHARMACEUTICAL MANUFACTURING

Section
218.480 Applicability
218.481 Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers
218.482 Control of Air Dryers, Production Equipment Exhaust Systems and Filters
218.483 Material Storage and Transfer
218.484 In-Process Tanks
218.485 Leaks
218.486 Other Emissions Units
218.487 Testing
218.488 Monitoring for Air Pollution Control Equipment
218.489 Recordkeeping for Air Pollution Control Equipment

SUBPART V: BATCH OPERATIONS AND AIR OXIDATION PROCESSES

Section
218.500 Applicability for Batch Operations
218.501 Control Requirements for Batch Operations
218.502 Determination of Uncontrolled Total Annual Mass Emissions and Average Flow Rate Values for Batch Operations
218.503 Performance and Testing Requirements for Batch Operations
218.504 Monitoring Requirements for Batch Operations
218.505 Reporting and Recordkeeping for Batch Operations
218.506 Compliance Date
218.520 Emission Limitations for Air Oxidation Processes
218.521 Definitions (Repealed)
218.522 Savings Clause
218.523 Compliance
218.524 Determination of Applicability
218.525 Emission Limitations for Air Oxidation Processes
218.526 Testing and Monitoring
218.527 Compliance Date (Repealed)

SUBPART W: AGRICULTURE

POLLUTION CONTROL BOARD

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Section
218.541 Pesticide Exception

SUBPART X: CONSTRUCTION

Section
218.561 Architectural Coatings
218.562 Paving Operations
218.563 Cutback Asphalt

SUBPART Y: GASOLINE DISTRIBUTION

Section
218.581 Bulk Gasoline Plants
218.582 Bulk Gasoline Terminals
218.583 Gasoline Dispensing Operations - Storage Tank Filling Operations
218.584 Gasoline Delivery Vessels
218.585 Gasoline Volatility Standards
218.586 Gasoline Dispensing Operations - Motor Vehicle Fueling Operations

SUBPART Z: DRY CLEANERS

Section
218.601 Perchloroethylene Dry Cleaners
218.602 Applicability
218.603 Leaks
218.604 Compliance Dates (Repealed)
218.605 Compliance Plan (Repealed)
218.606 Exception to Compliance Plan (Repealed)
218.607 Standards for Petroleum Solvent Dry Cleaners
218.608 Operating Practices for Petroleum Solvent Dry Cleaners
218.609 Program for Inspection and Repair of Leaks
218.610 Testing and Monitoring
218.611 Applicability for Petroleum Solvent Dry Cleaners
218.612 Compliance Dates (Repealed)
218.613 Compliance Plan (Repealed)

SUBPART AA: PAINT AND INK MANUFACTURING

Section
218.620 Applicability
218.621 Exemption for Waterbase Material and Heatset Offset Ink
218.623 Permit Conditions (Repealed)
218.624 Open-Top Mills, Tanks, Vats or Vessels
218.625 Grinding Mills
218.626 Storage Tanks
218.628 Leaks
218.630 Clean Up

POLLUTION CONTROL BOARD

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218.636 Compliance Schedule
218.637 Recordkeeping and Reporting

SUBPART BB: POLYSTYRENE PLANTS

Section
218.640 Applicability
218.642 Emissions Limitation at Polystyrene Plants
218.644 Emissions Testing

SUBPART CC: POLYESTER RESIN PRODUCT MANUFACTURING PROCESS

Section
218.660 Applicability
218.666 Control Requirements
218.667 Compliance Schedule
218.668 Testing
218.670 Recordkeeping and Reporting for Exempt Emission Units
218.672 Recordkeeping and Reporting for Subject Emission Units

SUBPART DD: AEROSOL CAN FILLING

Section
218.680 Applicability
218.686 Control Requirements
218.688 Testing
218.690 Recordkeeping and Reporting for Exempt Emission Units
218.692 Recordkeeping and Reporting for Subject Emission Units

SUBPART FF: BAKERY OVENS (Repealed)

Section
218.720 Applicability (Repealed)
218.722 Control Requirements (Repealed)
218.726 Testing (Repealed)
218.727 Monitoring (Repealed)
218.728 Recordkeeping and Reporting (Repealed)
218.729 Compliance Date (Repealed)
218.730 Certification (Repealed)

SUBPART GG: MARINE TERMINALS

Section
218.760 Applicability
218.762 Control Requirements
218.764 Compliance Certification
218.766 Leaks
218.768 Testing and Monitoring

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218.770 Recordkeeping and Reporting

SUBPART HH: MOTOR VEHICLE REFINISHING

Section
218.780 Emission Limitations
218.782 Alternative Control Requirements
218.784 Equipment Specifications
218.786 Surface Preparation Materials
218.787 Work Practices
218.788 Testing
218.789 Monitoring and Recordkeeping for Control Devices
218.790 General Recordkeeping and Reporting
218.791 Compliance Date
218.792 Registration
218.875 Applicability of Subpart BB (Renumbered)
218.877 Emissions Limitation at Polystyrene Plants (Renumbered)
218.879 Compliance Date (Repealed)
218.881 Compliance Plan (Repealed)
218.883 Special Requirements for Compliance Plan (Repealed)
218.886 Emissions Testing (Renumbered)

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT MANUFACTURING PROCESSES

Section
218.920 Applicability
218.923 Permit Conditions (Repealed)
218.926 Control Requirements
218.927 Compliance Schedule
218.928 Testing

SUBPART QQ: MISCELLANEOUS FORMULATION MANUFACTURING PROCESSES

Section
218.940 Applicability
218.943 Permit Conditions (Repealed)
218.946 Control Requirements
218.947 Compliance Schedule
218.948 Testing

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING PROCESSES

Section
218.960 Applicability
218.963 Permit Conditions (Repealed)
218.966 Control Requirements
218.967 Compliance Schedule
218.968 Testing

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

SUBPART TT: OTHER EMISSION UNITS

Section
218.980 Applicability
218.983 Permit Conditions (Repealed)
218.986 Control Requirements
218.987 Compliance Schedule
218.988 Testing

SUBPART UU: RECORDKEEPING AND REPORTING

Section
218.990 Exempt Emission Units
218.991 Subject Emission Units

APPENDIX A List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing
APPENDIX B VOM Measurement Techniques for Capture Efficiency
APPENDIX C Reference Methods and Procedures
APPENDIX D Coefficients for the Total Resource Effectiveness Index (TRE) Equation
APPENDIX E List of Affected Marine Terminals
APPENDIX G TRE Index Measurements for SOCM I Reactors and Distillation Units
APPENDIX H Baseline VOM Content Limitations for Subpart F, Section 218.212 Cross-Line Averaging

AUTHORITY: Implementing Section 10 and authorized by Section 28.5 of the Environmental Protection Act [415 ILCS 5/10 and 28.5].

SOURCE: Adopted in R91-7 at 15 Ill. Reg. 12231, effective August 16, 1991; amended in R91-24 at 16 Ill. Reg. 13564, effective August 24, 1992; amended in R91-28 and R91-30 at 16 Ill. Reg. 13864, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16636, effective September 27, 1993; amended in R93-14 at 18 Ill. Reg. 1945, effective January 24, 1994; amended in R94-12 at 18 Ill. Reg. 14973, effective September 21, 1994; amended in R94-15 at 18 Ill. Reg. 16392, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16950, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6848, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7359, effective May 22, 1995; amended in R96-13 at 20 Ill. Reg. 14428, effective October 17, 1996; amended in R97-24 at 21 Ill. Reg. 7708, effective June 9, 1997; amended in R97-31 at 22 Ill. Reg. 3556, effective February 2, 1998; amended in R98-16, at 22 Ill. Reg. 4424, effective

BOARD NOTE: This Part implements the Illinois Environmental Protection Act as of July 1, 1991.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

NOTE: In this Part, superscript numbers or letters are denoted by parentheses, subscript are denoted by brackets, and SUM means the summation series or sigma function as used in mathematics.

SUBPART QQ: MISCELLANEOUS FORMULATION MANUFACTURING PROCESSES

Section 218.940 Applicability

a) Maximum theoretical emissions:

- 1) A source is subject to this Subpart if it contains process emission units not regulated by Subparts B, E, F (excluding Section 218.204(1)), H (excluding Section 218.405), Q, R, S, T (excluding Section 218.486), V, X, Y, Z or BB of this Part, which as a group both:
 - A) Have maximum theoretical emissions of 90.7 Mg (100 tons) or more per calendar year of VOM, and
 - B) Are not limited to less than 90.7 Mg (100 tons) of VOM emissions per calendar year in the absence of air pollution control equipment through production or capacity limitations contained in a federally enforceable permit or a SIP or FIP revision.
- 2) If a source is subject to this Subpart as provided above, the requirements of this Subpart shall apply to a source's miscellaneous formulation manufacturing process emission units which are not included within any of the categories specified in Subparts B, E, F, H, Q, R, S, T, V, X, Y, Z, AA, or BB of this Part.

b) Potential to emit:

- 1) A source is subject to this Subpart if it has the potential to emit 22.7 Mg (25 tons) or more of VOM per year, in aggregate, from emission units that are:
 - A) Not regulated by Subparts B, E, F, H, Q, R, S, T (excluding Section 218.486), V, X, Y, Z, or BB of this Part, or
 - B) Not included in any of the following categories: synthetic organic chemical manufacturing industry (SOCMI) distillation, SOCM I reactors, wood furniture, plastic parts coating (business machines), plastic parts coating (other), offset lithography, industrial wastewater, autobody refinishing, SOCM I batch processing, volatile organic liquid storage tanks and clean-up solvents operations.
- 2) If a source is subject to this Subpart as provided above, the requirements of this Subpart shall apply to a source's miscellaneous formulation manufacturing process emission units which are:
 - A) Not included within any of the categories specified in Subparts B, E, F, H, Q, R, S, T, V, X, Y, Z, AA, BB, CC, or DD of this Part, or
 - B) Not included in any of the following categories: synthetic

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- 6) Does this Rulemaking Contain an Automatic Repeal Date? No
- 7) Does this Rulemaking Contain any Incorporation by Reference? Yes
- 8) A copy of the adopted rule, including material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposed Rulemaking was Published in the Illinois Register:
October 31, 1997; 21 Ill. Reg. 14166
- 10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking? No
- 11) Difference Between Proposal and Final Version:

In Section 465.120 the definition of "consultant" has been deleted. The definition of "parameter" has been revised to mean a microbiological organism.

Section 465.130(d) has been revised by the addition of a sentence stating, "If all requirements of subsection (c) of this Section are satisfactory, approval will be granted."

Section 465.160 entitled "Preliminary Certification" has been deleted from the rulemaking.

Section 465.200 has been revised by removing the following sentence: "Failure to provide results proving satisfactory precision and accuracy in 2 successive samples shall be cause for revocation of certification for the parameter or method not within satisfactory limits."

- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreement letter issued by the Joint Committee.

13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking establishes minimum standards and procedures for the certification of environmental laboratories that perform microbiological analyses on public water supply samples. The rules specify requirements applicable to laboratory personnel, equipment, sampling and record keeping, in addition to general requirements of licensure. Such laboratories are currently certified by

DEPARTMENT OF PUBLIC HEALTH

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the Department under rules at 35 Ill. Adm. Code 183 (Joint Rules of the Illinois Environmental Protection Agency, the Illinois Department of Public Health and the Illinois Department of Nuclear Safety: Certification and Operation of Environmental Laboratories). This rulemaking will replace the Department's portion of the joint rules, which are being repealed in a concurrent rulemaking.

- 16) Information and Questions Regarding these Adopted Amendments shall be directed to:

Gail M. DeVito, Administrative Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Springfield, Illinois 62761
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The full text of the Adopted Rules begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER d: LABORATORIES AND BLOOD BANKS

PART 465

CERTIFICATION AND OPERATION OF ENVIRONMENTAL LABORATORIES

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APPENDIX A

AUTHORITY: Implementing Section 1401(1)(D) of the Safe Drinking Water Act (42 U.S.C. 300f(1)(D)), Subpart C of the National Primary Drinking Water

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Regulations (40 CFR 141.21 through 141.30 (1991)), the Illinois Environmental Protection Act [415 ILCS 5] and the Civil Administrative Code of Illinois [20 ILCS 5], and authorized by Sections 4(o) and (p) of the Illinois Environmental Protection Act [415 ILCS 5/4(o) and (p)] and Sections 55.10 through 55.12 and Section 71(D) of the Civil Administrative Code of Illinois [20 ILCS 2310/55.10 through 55.12, and 20 ILCS 2005/71(D)].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____, 1993.

SUBPART A: GENERAL PROVISIONS

Section 465.100 Authority

Pursuant to the authority contained in 20 ILCS 2310/55.10 through 55.12 and 20 ILCS 2005/71(D) that authorizes the Illinois Department of Public Health to establish and enforce minimum standards and establish certification procedures for laboratories making examinations in connection with the diagnosis of disease or tests for the evaluation of health hazards, and also to enter into contracts with other public agencies for the exchange of health services that may benefit the health of the people; and pursuant to the authority contained in Section 4(o) and (p) of the Illinois Environmental Protection Act.

Section 465.110 Scope and Applicability

- This Subpart A establishes general provisions applicable to the certification program for environmental laboratories administered under this Part.
- Nothing in this Part shall prevent uncertified laboratories from performing any quality control or other tests when the State has not required such tests to be performed by a certified laboratory.

Section 465.120 Definitions

For purposes of this Part unless otherwise specifically defined or the context clearly requires a different meaning:

"Act" means Sections 4(o) and (p) of the Environmental Protection Act [415 ILCS 5/4(o) and (p)].

"Analyst" means any person who performs analyses for certain or all parameters on samples submitted to the environmental laboratory and who meets the qualifications set forth in Section 465.310(b).

"ASTM" means the American Society for Testing and Materials, West Conshohocken PA, a not-for-profit, voluntary standards development system.

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"Certification" means a status of approval granted to an environmental laboratory that meets the criteria established by this Part or in accordance with a reciprocity agreement entered into pursuant to Section 465.240. Certification is not a guarantee of the validity of the data generated.

"Certification Officer" means any person who is designated by the Department to inspect and evaluate environmental laboratories for compliance in meeting the criteria set forth in this Part. Certification officers shall meet the educational and experience qualifications for laboratory supervisors as set forth in Section 465.310(a).

"Department" means the Illinois Department of Public Health.

"Deficiency" means a failure of an environmental laboratory to meet any requirement of this Part.

"Environmental Laboratory" means any facility that performs analyses on environmental samples in order to determine the quality of food, milk, public water supplies, surface water, ground water, recreational waters, wastewater, air, or land.

"Laboratory Pure Water" means water meeting the standards set forth in Section 465.380.

"Laboratory Supervisor" means a person who supervises the performance of the analytical procedures within an environmental laboratory and who meets the qualifications set forth in Section 465.310(a).

"Major Remodeling" means any remodeling of the laboratory facility which requires the acquisition of a local building permit.

"NIST" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (formerly National Bureau of Standards).

"Parameter" means a microbiological organism.

"Performance Evaluation Sample (PES)" means a sample used to determine accuracy, prepared either by the Department or an authority recognized by the certifying agency, in which the true value and acceptance limits are unknown to the laboratory at the time of analysis.

"Provisional Certification" means a certification status granted to an environmental laboratory in order to allow time for the correction of a deficiency. Failure to correct a deficiency during the provisional certification period allows the Department to revoke certification as

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specified in Section 465.180. While on provisional certification, an environmental laboratory remains approved for the analyses covered by its certification.

"Public Water Supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year.

Section 465.125 Incorporated Materials

- a) The following document is incorporated by reference in this Part: "Standard Methods for the Examination of Water and Wastewater" (18th Edition), American Public Health Association, Washington, D.C., 1992.
- b) This incorporation by reference refers to the edition of the document on the date specified and does not include any subsequent amendments or editions. A copy of this publication is available for public inspection at the Department's central office.

Section 465.130 Certification Procedure

- a) An environmental laboratory that meets or exceeds the minimum criteria for certification may receive certification from the Department for any microbiological parameter for which a methodology has been specified in this Part or for which an alternative methodology has been approved in accordance with the provisions of this Part.
- b) The operational aspects of an environmental laboratory that will be evaluated in considering a request for certification are:
- 1) laboratory facilities,
 - 2) personnel,
 - 3) methodology and instrumentation,
 - 4) data handling, and
 - 5) quality assurance program.
- c) In seeking certification, the petitioning environmental laboratory shall:
- 1) Submit a formal request for certification to the Department;
 - 2) File with the Department on the applicable administrative questionnaires furnished by the Department, if available, or otherwise in a form approved by the Department, providing complete information on the 5 categories listed in subsection (b) above;
 - 3) Analyze all performance evaluation samples/quality assurance samples required in accordance with the applicable Sections of this Part and report the results of such analyses to the

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Department; and

- 4) Permit and cooperate in an on-site visit by Department-authorized certification officers. Certification officers shall provide the environmental laboratory with official identification and credentials. The initial visit will be arranged at the mutual convenience of both parties. The Department reserves the right to make subsequent visits without prior notice during regular working hours.
- d) Approval or denial of certification may be made only after the procedure described in subsection (c) of this Section has been completed. If all requirements of subsection (c) of this Section are satisfactory, approval will be granted. Denial of certification shall be in the form of a narrative, giving information as to how deficiencies may be corrected, along with a completed survey form on which all deficiencies are clearly identified.
- e) Environmental laboratories in jurisdictions not having reciprocal agreements with the Department under Section 465.240 may receive certification from the Department under this Part and shall pay all of the expenses to be incurred by the Department, including travel expenses, prior to evaluation.

Section 465.140 Conditions Governing the Use of Certificates

- a) Certification of environmental laboratories shall be effective for a 2-year period from the date of issue, unless modified or revoked by the Department. Application for timely renewal of certification shall be made to the Department no later than 90 days prior to the applicable expiration date. Approval of a renewal application shall be contingent upon the environmental laboratory meeting all of the factors considered in granting the original certification, including acceptable results on performance evaluation samples/quality assurance samples required under this Part. When a certified environmental laboratory has made timely and sufficient application for renewal of certification or certification for additional parameters, the existing certification shall, unless otherwise modified or revoked in accordance with this Part, continue in full force and effect until the final decision of the Department on the application has been made.
- b) Certification shall be limited to those parameters for which an environmental laboratory has been approved and which are listed on the certificate of approval.
- c) The certificate of approval shall be posted or displayed in a prominent place in the laboratory facility.
- d) Information related to the certification of an environmental laboratory shall be accurately represented if used in any advertising and shall prominently include the statement that, "Certification by the State of Illinois is not an endorsement or a guarantee of the validity of the data generated." Such information shall also specify the parameters for which the environmental laboratory has been

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certified. The advertising shall not include any representation that the environmental laboratory is certified to perform a type of analysis for which it lacks proper certification.

- e) An environmental laboratory may surrender its certification voluntarily by notifying the Department in writing and returning the certificate.

Section 465.150 Provisional Certification

- a) Whenever a deficiency is found, a certified environmental laboratory may be placed on provisional certification. Provisional certification may be imposed for the following periods:
 - 1) From seven to 30 days if the deficiency could compromise the quality of analytical data generated by the environmental laboratory; or
 - 2) From 90 days to one year in the case of any other type of deficiency.
- b) A provisionally certified laboratory may continue to analyze samples for compliance purposes, but shall notify its clients of its provisionally certified status by providing that information in writing, as soon as practicable, but in no event later than 3 working days after the imposition of provisionally certified status and shall also include such information on any report of any analysis performed during the period of provisional certification.

Section 465.170 Changes in Ownership or Operations

- a) Certification shall not be transferable. In the event of a change of ownership, director, supervisor, or analyst, or relocation or major remodeling of the physical plant of an environmental laboratory, the Department shall be notified in writing within 15 days and shall be provided with the resumes of any new owners, directors, supervisors, and analysts and a description of any relocation or remodeling of the physical plant.
- b) After receiving notification of any of the changes listed in subsection (a) above, unless otherwise specified in this Part for a specific parameter, the Department may, as applicable, review the resume of any new owner, director, supervisor, or analyst, require the analysis of performance evaluation samples/quality assurance samples by any new analyst, or make an on-site visit. However, the Department may waive any of these actions if it finds such actions to be unwarranted in a specific case. Examples of when such waivers would be appropriate include the following circumstances:
 - 1) Waiver of submittal of a summary of education and experience when personnel transferring from one certified laboratory to another are responsible for dealing with the same analytical methods and equivalent equipment; and
 - 2) Waiver of an on-site visit if the pertinent test procedures

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involve simple techniques and equipment.

Section 465.180 Revocation of Certification

- a) The Department may revoke all or any part of an environmental laboratory's certification. Any of the following shall be cause for partial or total revocation of certification:
 - 1) Expiration of a period of provisional certification, provided the laboratory has not corrected the deficiencies after being placed on provisional certification in accordance with the provisions of Section 465.150;
 - 2) Unsatisfactory analyses of performance evaluation samples/quality assurance samples as specified in Section 465.200;
 - 3) Failure to notify the Department within 15 days after any of the changes listed in Section 465.170 have occurred;
 - 4) Failure to comply with the requirements regarding advertising as specified in Section 465.140(d);
 - 5) Failure to use the analytical methodology specified in this Part or approved in accordance with this Part;
 - 6) Failure to provide notice in accordance with Section 465.150(b) of its status as a provisionally certified environmental laboratory;
 - 7) Falsification of results of testing of performance evaluation samples/quality assurance samples or any other information material to the certification; or
 - 8) When conducting performance evaluation sample analysis in accordance with Section 465.200, failure to provide results proving satisfactory precision and accuracy in 2 successive samples shall be cause for revocation of certification for the parameter or method not within satisfactory limits.
- b) The following factors shall be taken into account by the Department in determining what action should be taken against a certified environmental laboratory for failing to comply with the requirements of this Section:
 - 1) The length of time during which the failure has existed;
 - 2) The laboratory's prior record of failures and response in correcting failures noted by the Department;
 - 3) Whether the laboratory knowingly caused or allowed the failure; and
 - 4) The potential effect of the failure on the quality of analytical data generated by the laboratory.

Section 465.190 Subcontracting by Certified Laboratories

- a) The name of the laboratory actually performing the analysis shall be specified on all reports of analytical results.
- b) For those tests that are required to be performed under certification, any laboratory with which a certified environmental laboratory

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subcontracts shall also be a certified environmental laboratory.

Section 465.200 Performance Evaluation Samples/Quality Assurance Samples

An environmental laboratory is required to participate in performance evaluation sample analyses for each analytical parameter or method for which it seeks or wishes to maintain certification in accordance with the certification procedures of Section 465.130(c), the certification renewal procedures of Section 465.140(a), and the quality assurance requirements contained in Subpart B of this Part. Unless otherwise specified in Subpart B of this Part, within 60 days after receipt of a performance evaluation sample, the environmental laboratory shall analyze such sample and report the test results to the Department. There shall be no fee charged to the Department for such analyses.

Section 465.210 Authority of Certification Officers

Certification officers shall have all of the following authority with regard to environmental laboratories:

- a) To inspect such laboratories in on-site visits;
- b) To require the laboratory to provide information regarding the technical operation of such laboratory relevant to certification;
- c) To inspect quality assurance records and any other records pertinent to certification;
- d) To observe and question analysts at work on parameters or methods for which certification is sought; and
- e) To grant or deny certification based upon the completion of the evaluation process.

Section 465.220 Hearing, Decision and Appeal

The following procedures are established for Department certification actions which are required by law to be preceded by notice and opportunity for hearing:

- a) Prior to revocation or partial revocation, the Department shall give written notice to the laboratory director or owner. This notice shall include a description of the proposed action, the facts or conduct upon which the Department will rely to support its proposed action, and the procedures for requesting a hearing.
- b) Notice given under subsection (a) above and any hearing requested following issuance of such notice shall be in accordance with the Department's "Rules of Practice and Procedure in Administrative Hearings" (77 Ill. Adm. Code 100).
- c) If, however, the Department finds that an emergency situation warrants immediate action, summary suspension as provided for by Section 10-65(d) of the Illinois Administrative Procedure Act [5 ILCS 100/10-65(d)] may be ordered pending revocation proceedings. An emergency situation warrants immediate action if there is substantial risk to public health, safety, or welfare resulting from laboratory deficiencies that are compromising or are likely to compromise the

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analytical results obtained.

- d) A final decision of the Director is appealable to the Circuit Courts under the Illinois Administrative Review Law [735 ILCS 5/Art. III].

Section 465.230 Liability

Representatives of the Department shall not waive the right to seek recovery for injuries incurred while inspecting an environmental laboratory facility.

Section 465.240 Reciprocity Agreements

Notwithstanding any other provision of this Part, the Director may elect to enter into agreements with the governments of other states or with federal governmental units for recognition of their environmental laboratory inspections and certifications if such certification program uses equivalent controls over sample collection, data handling, quality control, analytical methods, and personnel as required of environmental laboratories within Illinois.

**SUBPART B: MICROBIOLOGICAL ANALYSES
OF PUBLIC WATER SUPPLY SAMPLES**

Section 465.300 Scope and Applicability

This Subpart B establishes standards applicable to environmental laboratories involved in microbiological analyses of samples of water from public water supplies and their sources.

Section 465.310 Personnel Requirements

- a) The laboratory supervisor shall be a person holding a minimum of a bachelor's degree in microbiology, biology, chemistry, or related natural or physical science field, shall have completed a training course conducted or approved by the Department, and shall have received Department approval to serve as laboratory supervisor. In addition, the laboratory supervisor shall have had a minimum of one year of bench experience in an environmental laboratory in the area of analytical responsibility and shall demonstrate ability to properly perform representative test procedures under his or her supervision while under observation by the certification officer. A laboratory supervisor shall be a full-time employee.
- b) An analyst is a person who performs microbiological analyses on water, has a minimum of a high school diploma in academic or laboratory oriented vocational courses, and has had a minimum of 6 months bench experience in a microbiological analytical laboratory. In addition, an analyst shall demonstrate ability to properly perform representative test procedures with which he or she is involved while under observation of the certification officer. Analysts shall be

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under the direct supervision of the laboratory supervisor.

- c) A person who is serving in the laboratory as an approved supervisor or an approved analyst on July 15, 1998 shall be considered to be in compliance with the personnel requirements, respectively, of subsection (a) or (b) of this Section.

Section 465.320 Laboratory Facilities

The laboratory's physical facilities shall meet the following specifications:

- a) A minimum of 150 square feet of floor space shall be provided for each analyst.

- b) Floors shall be covered with asphalt tile, vinyl, concrete, or other impervious, washable surface, which can be easily maintained.
- c) Floor space shall be available for stationary equipment such as autoclaves, incubators, and hot-air sterilization ovens. Storage space that is free of dust and insects shall be provided for the protection of glassware, media, and portable equipment.
- d) Laboratories analyzing potable water, non-potable source water and recreation water, and sewage by microbiological methods shall have at least 2 separate rooms (a room for potable water, non-potable source water and recreation water and a room for sewage).
- e) A separate bench for preparation and sterilization of media, glassware, and equipment shall be provided.
- f) Walls and ceilings shall be covered with waterproof paint, enamel, ceramic tile, or other surface material that provides a smooth finish that is easily cleaned and disinfected.
- g) A minimum of 6 linear feet of useable bench space, free of equipment, shall be provided for each analyst.
- h) Bench tops shall be stainless steel, epoxy plastic, or other smooth impervious material that is inert, is corrosion resistant, has a minimum number of seams, and is level.
- i) Laboratory lighting shall be even and provide a minimum of 100 footcandle light intensity at all working surfaces.
- j) The laboratory shall include a sink with hot and cold running water. All water supply outlets shall be protected by a backflow prevention device as specified in the Illinois Plumbing Code (77 Ill. Adm. Code 890).
- k) Laboratories shall be well ventilated and free of dusts, drafts, and extreme temperature changes. Central air-conditioning is recommended to reduce contamination, permit more stable operation of incubators, and decrease moisture problems with media and analytical balances. The temperature within the laboratory shall be maintained at between 60° and 80° F.
- l) An adequate electrical supply for operation of instruments and mechanical needs shall be provided. The certification officer may require verification from an official inspector or other qualified person that the laboratory meets local and national electrical codes.
- m) All electrical outlets shall be properly grounded.

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- n) Instruments shall be properly grounded with an internal or external regulated power supply available to each instrument.
- o) All plumbing shall comply with the Illinois Plumbing Code or any local plumbing code that is more stringent than the Illinois Plumbing Code. The certification officer may require verification from an official inspector or other qualified person that the laboratory meets such codes.
- p) The laboratory shall include a vacuum source for use in membrane filter procedures.
- q) The laboratory shall be located in an area sufficiently free from noise and vibrations to prevent interference with its functions.
- r) The laboratory shall have a readily available source of laboratory pure water.

Section 465.330 Laboratory Equipment

Only those instruments that are needed to analyze for the parameters for which the laboratory is being certified are required, but those instruments shall meet the following minimum specifications. A laboratory performing all the analyses described in Section 465.360 shall have, or have access to, within the same building, all of the equipment listed in this Section with the minimum specifications cited.

- a) A top loading or trip pan balance shall be clean, not corroded, and provided with standardized Class S or S-1, or equivalent ASTM 1, 2, or 3, weights, certified by the manufacturer as meeting the requirements established by NIST. The certificate of accuracy shall accompany the weights.
 - 1) A torsion or trip pan balance used for weighing materials of 2 grams or more shall detect 100 mg of weight accurately at a 150 gram load.
 - 2) An analytical balance used for weighing quantities of less than 2 grams shall be sensitive to 1 mg at a 10 gram load.
- b) A magnetic stirrer shall be capable of achieving variable speeds and shall be used with a Teflon-coated stirring bar. The magnetic stirrer may be equipped with a heating element.
- c) A pH meter shall have an accuracy of at least ± 0.1 units and a scale readability of at least ± 0.1 units. The pH meter may be either line/bench or battery/portable operated.
- d) A conductivity meter and cell combination, suitable for checking laboratory pure water quality, shall be readable in ohms or mhos, and have a range of up to 2.5 megohm-cm resistivity (conductivity down to 0.4 micromhos/cm) $\pm 1\%$. The conductivity meter may be either line/bench or battery/portable operated.
- e) An autoclave shall be horizontal-chambered and shall meet all of the following specifications:
 - 1) When observed during the operational cycle or when time-temperature charts are read, the autoclave shall be in good operating condition:

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- 2) An operating safety valve shall be included;
- 3) Separate temperature and pressure gauges shall be located on the exhaust side;
- 4) The autoclave shall reach and maintain a temperature of $121^\circ \pm 1^\circ$ C during the sterilization cycle, and no more than 45 minutes shall be required for a complete cycle of carbohydrate media; and
- 5) Depressurization shall not produce gas bubbles in fermentation media.
- f) A hot-air sterilization oven shall operate at a minimum of 175° C, shall be equipped with a thermometer inserted through the top porthole or be equipped with a temperature recording device, and shall be equipped with a thermostatic control that will not allow the temperature to deviate by more than $\pm 5^\circ$ C from the temperature setting.
- g) An incubation unit shall maintain an internal temperature of $35^\circ \pm 0.5^\circ$ C or $44.5^\circ \pm 0.2^\circ$ C and shall be of the following type: air or water jacketed incubator, incubator room, waterbath, or aluminum block incubator. Incubation units of the aluminum block type shall have culture dishes and tubes that are snug fitting in the block.
- h) An ultraviolet sterilizer shall be free from radiation leaks and shall be UV efficiency tested quarterly as described in "Standard Methods for the Examination of Water and Wastewater." Proper eye protection shall be available for users of the ultraviolet sterilizer. The ultraviolet sterilizer shall not be used as a substitute for an autoclave. The unit shall be disconnected monthly and the lamps cleaned by wiping with a soft cloth moistened with ethanol.
- i) A refrigerator shall maintain a temperature of between 1° and 4.4° C and shall be equipped with a thermometer located on the top shelf. The thermometer shall be graduated in not greater than 1° C increments and the thermometer bulb shall be immersed in liquid.
- j) An agar tempering water bath shall be of appropriate size for holding melted medium and shall be thermostatically controlled at $45^\circ \pm 1^\circ$ C. The following standards shall apply to temperature monitoring devices:
 - 1) Glass or electronic thermometers shall be graduated in not greater than 0.5° C units for use in 35° C incubators.
 - 2) Glass or electronic thermometers shall be graduated in not greater than 0.2° C units for use in 44.5° C waterbaths or aluminum block type incubators.
 - 3) Glass or electronic thermometers shall be graduated in not greater than 1.0° C units for use in 55° to 65° C incubators.
 - 4) Electronic thermometers with thermocouplings and continuous temperature recording devices shall be sensitive to not greater than 0.5° C when used on 35° C incubators, shall be sensitive to not greater than 0.2° C when used for 44.5° C waterbaths or aluminum block type incubators, and shall be sensitive to not greater than 1° C when used on 55° to 65° C incubators.
- 5) An NIST certified thermometer, or one of equivalent accuracy graduated in 0.2° C or less, shall be available for calibration

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use and shall be accompanied by its certification papers and procedures for use. Unless otherwise specified in this Subpart C, all thermometers and temperature recording devices shall be calibrated annually at temperature of use against such certified thermometer to within $\pm 1.0^\circ\text{C}$.

- 6) Each laboratory shall have a maximum registering thermometer in the range of 90° to 200°C graduated in increments no greater than 1°C .
- 7) Each laboratory shall use separate thermometers for determining the temperatures of waterbaths, ovens, autoclaves, samples, refrigerators, storage areas, etc.
- 8) The liquid column of glass thermometers shall have no separations.

- 1) Optical counting equipment shall include a low power magnification device of the dissecting or stereomicroscope type with a magnification power of 10 to 15 diameters, and an external daylight fluorescent light source for sheen discernment at an angle of 60° to 80° above the colonies.

- m) A mechanical hand tally shall be available for counting colonies on membrane filters or agar pour plates.

- n) Where metal inoculation loops are used, loops shall be of 22 to 24 gauge chrome, or platinum-iridium wire; with loop diameters of at least 3 mm. Hot-air sterilized wooden applicator sticks, pre-sterilized cotton swabs or pre-sterilized plastic loops may be used.

- o) Membrane filter equipment shall be non-leaking, uncorroded, and made of stainless steel, glass, or autoclavable plastic. Metal plating on membrane filter equipment shall not be worn so as to expose base metal. Calibration shall be checked before first use with Class A graduated cylinders and a record maintained. Tolerance shall be $\pm 2.5\%$.

- p) Membrane filters shall be white, grid marked, 47 mm diameter, with 0.45 micron pore size, and made from cellulose ester materials. Another pore size may be used if the manufacturer gives performance data equal to or better than the 0.45 micron membrane filter. Membrane filters shall be autoclavable or presterilized.

- q) Absorbent pads shall be of uniform thickness to permit 1.8 to 2.2 ml media absorption and shall be autoclavable or presterilized. Filter paper shall be free from growth inhibitory substances.

- r) Forceps used to handle membrane filters and absorbent pads shall have a round tip without corrugations.

Section 465.340 Laboratory Glassware, Plastic Ware and Metal Utensils

- a) Except for disposable plastic ware, items shall be resistant to effects of corrosion, high temperature, and vigorous cleaning operations. Metal utensils made of stainless steel are preferred. Plastic items shall be of inert, non-toxic material and shall retain

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accurate graduations or calibration marks after repeated autoclaving. Glassware which is used for purposes that may subject it to damage from heat or chemicals shall be of borosilicate glass. All glassware shall be free of chips, cracks, or excessive etching. All volumetric glassware shall be Class A, denoting that it meets federal specifications and is certified by the manufacturer as meeting the standards established by the American Society for Testing and Materials (ASTM).

- b) Graduated cylinders for measurement of sample volumes shall have a tolerance of 2.5% or less, precalibrated sample containers shall have clearly marked volumes of 2.5% tolerance. The calibration of each precalibrated sample container shall be checked before first use by measuring the volume of 10 calibrated containers per lot.

- c) Media preparation utensils shall be of borosilicate glass or stainless steel, and shall be clean and free from foreign residues or dried medium.

- d) Pipets and pipettors shall meet the specifications set forth in "Standard Methods for the Examination of Water and Wastewater." Containers for glass pipets shall be of either stainless steel or aluminum. Opened packages of sterile disposable pipets shall be securely resealed between uses. A pipet aid shall be used when using pipets; mouth pipetting is prohibited.

- e) Culture dishes shall be sterile and shall be of the tight or loose-lid plastic, or loose-lid glass, type. In addition, culture dishes shall be of 100 mm x 15 mm, 50 mm x 12 mm, or 60 mm x 15 mm size; and shall be clear, flat bottomed, and free from bubbles or scratches or both. Containers for culture dishes shall be of aluminum or stainless steel; or culture dishes shall be wrapped in heavy aluminum foil or char-resistant paper. Open packages of sterile disposable culture dishes shall be securely resealed between uses. Loose-lid dishes shall be incubated in a tight-fitting container to prevent dehydration of membrane filter and medium.

- f) Culture tubes shall be of borosilicate glass or other corrosion resistant glass, and shall be of sufficient size to contain culture medium, as well as the sample portions employed, without being more than three-fourths full. Culture tube closures shall be loose-fitting stainless steel, or plastic caps, or aluminum caps, or plastic screw caps with non-toxic liners.

- g) Dilution bottles shall be of borosilicate glass or other corrosion resistant glass or autoclavable plastic and shall be free of chips and cracks at the lip. A graduation level shall be distinctly marked on the side of dilution bottles at 99 ml. Dilution bottle closures shall be plastic screw caps with leakproof liners and shall not produce toxic substances during the sterilization process.

- h) Sample bottles shall be sterile, of plastic or hard glass, wide mouthed, and of at least 120 ml capacity. Sample bottle closures shall be glass stoppers or screw caps (metal or plastic), capable of withstanding repeated sterilization, with leakproof liners, and shall

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not produce toxic substances during the sterilization process. Glass-stoppered bottle closures shall be covered with aluminum foil or char-resistant paper for sterilization. Metal caps with exposed bare metal on the inside shall not be used, presterilized bags, with or without a dechlorinating reagent, may be used.

Section 465.350 General Laboratory Practices

- a) The following standards shall apply to sterilization procedures:
 - 1) Autoclaving of the following items shall be carried out at 121° ± 1° C for the durations specified below:

Item	Minimum duration of autoclaving at 121° ± 1° C
------	--

Membrane filters and pads	10 minutes
Carbohydrate-containing media (lauryl tryptose, brilliant green lactose bile broth, etc.)	12-15 minutes
Contaminated materials and discarded tests	30 minutes
Membrane filter assemblies (wrapped), sample collection bottles (empty), and individual glassware items	15 minutes
Rinse water volumes of 500 ml to 1000 ml	45 minutes
Rinse water volumes in excess of 1000 ml	Time adjusted for volume; check for sterility
Dilution water blanks	15 minutes
2) Membrane filters and pads and all media shall be removed from the autoclave immediately after completion of the sterilization cycle.	
3) The maximum elapsed time for exposure of carbohydrate-containing media to any heat (from the time of closing the loaded autoclave to unloading) shall be 45 minutes.	
4) Membrane filter assemblies shall be autoclaved between each sample filtration series. A filtration series ends when 30 minutes or more have elapsed between sample filtrations. A UV check of distilled water may be used on membrane filter	

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assemblies for at least 2 minutes to prevent bacterial carry-over between sample filtrations, but shall not be used as a substitute for autoclaving between sample filtration series.

- 5) Dried glassware to be sterilized in a hot-air sterilizing oven shall be kept at 175° ± 5° C for at least 2 hours.
- 6) Empty sample containers shall be moistened with several drops of distilled water before autoclaving to prevent an "airlock" sterilization failure.
- b) Laboratory pure water, which may be distilled, deionized, or other processed water, shall meet the standards set forth in Section 465.380. Only water determined to be laboratory pure water shall be used for performing bacteriological analyses.
- c) Rinse and dilution water shall be prepared in the following manner:
 - 1) A stock phosphate buffer solution of potassium dihydrogen phosphate (KH₂PO₄) and a magnesium chloride solution shall be prepared as specified in "Standard Methods for the Examination of Water and Wastewater."
 - 2) The phosphate buffer solution and magnesium chloride solution shall be autoclaved or filter sterilized, labeled, dated, and stored at 1° to 4.4° C.
 - 3) The stored stock phosphate buffer solution and magnesium chloride solution shall be free of turbidity.
 - 4) Rinse and dilution water shall be prepared by adding 1.25 ml of stock phosphate buffer solution and 5.0 ml of magnesium chloride solution per liter of laboratory pure water.
 - 5) Check each batch of prepared or each lot of commercial dilution/rinse water for sterility by adding 50 ml of water to 50 ml of double-strength, nonselective broth. Incubate at 35.0° ± 0.5° C for 24 hours and check for growth.
 - 6) Check each batch of prepared or each lot of commercial dilution water blanks for pH; pH shall be 7.2 ± 0.2.
 - 7) Check 1 of 25 dilution water blanks per batch of prepared or lot of commercial dilution water blanks for volume using a Class A graduated cylinder or a MacCaffrey flask. Volume must be 99 ml ± 2 ml.
- d) The following minimum standards shall be met for storing and preparing media:
 - 1) Laboratories shall use commercial dehydrated media or commercially manufactured prepared media for routine bacteriological procedures.
 - 2) All media shall be prepared according to the media specifications of "Standard Methods for the Examination of Water and Wastewater."
 - 3) Dehydrated media containers shall be kept tightly closed and stored in a cool, dry location. Discolored or caked dehydrated media shall not be used.
 - 4) All water used shall be laboratory pure water.
 - 5) Dissolution of the media shall be completed before dispensing to

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- culture tubes or bottles.
- 6) Membrane filter broths and agar media shall be heated in a boiling water bath or, if constantly attended, a hot plate with a stir bar, until completely dissolved. The medium shall not be boiled. Denatured ethanol shall not be used.
 - 7) Membrane filter broths shall be stored and refrigerated no longer than 96 hours prior to use. Membrane filter agar media shall be stored in a refrigerator, and used within 2 weeks after preparation. Prepared plates shall be stored in sealed plastic bags or containers to minimize evaporation.
 - 8) Multiple Tube Fermentation (MTF) media, when prepared in tubes with loose-fitting caps, shall be used within one week after preparation. If MTF media are refrigerated after sterilization, they shall be incubated overnight at 35° C to confirm usability. Tubes of MTF media showing growth or gas bubbles shall be discarded. Refrigerated M Endo agar LES shall be used within 2 weeks after refrigeration or discarded.
 - 9) MTF media in screw cap containers may be held up to 3 months, provided the media are stored in the dark and evaporation does not exceed 1.0 ml per 10 ml total volume.
 - 10) Heterotrophic plate count agar in screw cap containers shall be stored and refrigerated no longer than 3 months.
 - 11) Commercially prepared media may be used, provided the media has been prepared in a microbiological water laboratory certified by the regulatory agency having responsibility for laboratory certification in the states where media is manufactured. The laboratory using the media shall record the date received, type of medium, lot number, sample performance when checked against cultures known to give positive and negative results, and pH verification. Medium shall be discarded by manufacturer's expiration date.
 - 12) Each new lot of dehydrated medium shall be checked before use against a lot that has previously tested to be acceptable with positive and negative samples or culture controls. In addition, each batch of laboratory prepared medium shall include positive and negative culture controls. These control organisms shall be either stock cultures (periodically checked for purity) or commercially available disks impregnated with the organism. Results shall be recorded.
 - 13) Preparation of ONPG-MUG medium from basic ingredients by the laboratory is not permitted. Medium shall be protected from light. Ingredients and containers supplied by manufacturers are sterile and shall not be autoclaved.
 - 14) Each lot of fluorogenic medium shall be checked before use with a 366 nm ultraviolet light with a 6-watt bulb. If the media exhibit faint fluorescence, the laboratory shall use another lot that does not fluoresce. Records shall be maintained in accordance with Section 465.420.

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- 15) If the Quanti-Tray or Quanti-Tray 2000 test is used, the sealer shall be checked monthly by adding a dye (e.g., bromocresol purple) to the water. If dye is observed outside the wells another sealer shall be obtained. Records shall be maintained.

Section 465.360 Methodology

A laboratory must be certified for all analytical methods listed below that it uses. At a minimum, the laboratory must be certified for one total coliform method; one fecal coliform or E. coli method; and the pour plate method for heterotrophic bacteria.

- a) The following methodology, as specified in the listed references, shall be followed for individual parameters:

Method References

Type of water	Parameter	Methodology	Reference [a]
Potable	Total Coliforms	Standard total coliform MTF & PA tests [b]	a
Potable	Total Coliforms	Standard total coliform membrane filter procedure	a
Potable	Fecal Coliforms	EC verification	a
Potable or Non-potable	Fecal Coliforms	Fecal coliform MTF procedure	a
Non-potable	Fecal Coliforms	Fecal coliform membrane filter procedure	a
Potable and Non-potable	Bacterial Total Count	Heterotrophic plate count	a
Potable and Non-potable	Total fecal Coliform and E. coli	ONPG-MUG	a & c
Potable and Non-potable	Total Coliform and E. coli	Colisure	See Appendix A

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NOTES:

- a. "Standard Methods for the Examination of Water and Wastewater."
- b. Excluding the gram-stain technique.
- c. "Manual for the Certification of Laboratories Analyzing Drinking Water," USEPA 570/9-90/008A, 4th Edition (March 1997). A copy of this manual can be obtained by contacting the U.S. Environmental Protection Agency, Washington, D.C. 20465. This manual as published and dated is exclusive of subsequent amendments or editions.
- b) The membrane filter procedure is preferred for the analysis of potable waters, because it permits analysis of large sample volumes in reduced analysis time. The membranes should show good colony development over the entire surface. The golden green metallic sheen colonies should be counted and recorded as the coliform density per 100 ml of water sample.
- c) The following requirements for reporting any problems with public water supply sample results shall be observed:
 - 1) Invalidate all samples resulting in confluent growth or TNTC (too numerous to count). Record as "confluent growth" or "TNTC" and request an additional sample from the same sampling site. Confluent growth is defined as a continuous bacterial growth, without evidence of total coliforms, covering the entire membrane filter. TNTC is defined as greater than 200 colonies on the membrane filter in the absence of detectable coliforms. A sample shall not be invalidated when the membrane filter contains at least one total coliform colony.
 - 2) A laboratory that has elected to use the MTF or PA procedures must invalidate samples that produce turbid cultures in the absence of gas production (MTF) or an acid reaction (PA). A sample shall not be invalidated if coliform is indicated.

Section 465.370 Sample Collection, Handling and Preservation

When the laboratory has been delegated responsibility for sample collection, handling, and preservation, there shall be strict adherence to correct sampling procedures, complete identification of the sample, and prompt transfer of the sample to the laboratory as specified in "Standard Methods for the Examination of Water and Wastewater." In addition, the following standards for sample collection, handling, and preservation of potable water samples shall be met:

- a) In order for the sample to be representative of the potable water system, the sampling program shall include examination of the finished water at selected sites that systematically cover the distribution network.
- b) Minimum sampling frequency shall be as specified in 35 Ill. Adm. Code 611, Subpart L (Microbiological Monitoring and Analytical Requirements).

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- c) Water shall be sampled from cold water taps that are free of aerators, strainers, hose attachments, and water purification devices. Prior to sampling, a steady flow of water shall be maintained from the tap for 2 to 3 minutes to clear the service line.
- d) The sample bottle shall be filled allowing at least 1/4 inch of air space from the top to provide space for mixing. A minimum sample volume of 100 ml shall be collected.
- e) The sample report form shall be completed in indelible ink immediately after collecting the sample and shall contain the following information: name of system (public water system site identification number, if available); sample identification (if any); date and time of collection; sample site location; sample collector's name and organization (if not the water system); persons transporting the samples from the system to the laboratory (if not the sampler); transportation condition (e.g., <10° C, protection from sunlight); sample type (e.g., routine, repeat); and total chlorine residual (if applicable).
- f) Sample bottles shall be of at least 120 ml capacity, of sterile plastic or hard glass, wide mouthed with glass stopper or screw cap (metal or plastic), and capable of withstanding repeated sterilization. Presterilized plastic bags, with or without a dechlorinating agent, may be used. Metal caps with exposed bare metal on the inside shall not be used. When samples are to be collected from chlorinated water supplies, sodium thiosulfate shall be added to the sample bottles in an amount sufficient to provide an approximate concentration of 100 mg per liter of sample prior to sterilization of the sample bottles. As an example, 0.1 ml of a 10% sodium thiosulfate solution is required for a 120 ml sample bottle.
- g) When the sample is delivered to the laboratory:
 - 1) The following information shall be added to the sample report form:
 - A) Date and time of sample arrival;
 - B) Name of carrier; and
 - C) Name of the person receiving the sample for the laboratory; and
 - 2) Each sample shall be assigned a laboratory number. In the event of a repeat or replacement sample, the number assigned to the original sample shall also be recorded.
 - h) Records necessary to establish chain-of-custody of the samples shall be maintained.
 - i) Samples shall be analyzed on the day of arrival in the laboratory, preferably within 30 hours after collection. If a sample is run after the 30 hour limit, the laboratory must indicate on the report form that the results may be invalid due to excessive delay before processing. Without exception, samples arriving more than 48 hours after collection shall be refused and a new sample requested.
 - j) Samples of potable water for heterotrophic plate count analysis shall be refrigerated and delivered to the laboratory within 6 hours after

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- d) Laboratory pure water shall not be in contact with heavy metals, and shall be analyzed initially and annually thereafter for trace metals (especially Pb, Cd, Cr, Cu, Ni, and Zn) in the quantities specified in subsection (a) of this Section. If the water tested exceeds requirements for trace metals, the water shall not be used until corrective action has been taken and retesting determines the testing requirements have been met.
- e) The following quality control tests for heterotrophic plate count shall be utilized:
- 1) Sterility controls shall be poured for each bottle of sterile, melted, tempered medium used.
 - 2) Sterility of pipets and petri dishes shall be determined.
 - 3) Microbial density of the air during plating procedures shall be determined for each series of samples plated. When 15 or more colonies appear on an exposed plate after a 15 minute exposure period and 48 hours of incubation at 35° C, corrective action shall be taken.
 - 4) The sterility of dilution water, if used, shall be determined.
 - 5) Records of all sterility test results shall be maintained.

Section 465.390 General Quality Control Procedures

- a) A written description of the current laboratory quality control program shall be maintained and made available to analysts in an area of the laboratory where analytical work takes place. A record of analytical quality control tests and quality control checks on media, materials, and equipment shall be prepared and retained for 5 years.
- b) A laboratory manual containing complete written instructions for each parameter for which the laboratory is certified shall be maintained and made available to analysts in an area of the laboratory where analytical work takes place.
- c) The following minimum requirements shall apply to analytical quality control tests for general laboratory practices and methodology:
- 1) Verify all coliform colonies. However, if the number of colonies exceeds 10/100 ml, then randomly pick 10 colonies for verification. An acceptable alternative method is to swab the entire membrane surface and transfer the swab to the verification test media in the following order: lauryl tryptose broth, EC medium, brilliant green lactose broth.
 - 2) A start and finish membrane filtration control test of rinse water, media, and supplies shall be conducted for each filtration series. If sterile controls indicate contamination, all data on samples affected shall be rejected and a request made for immediate resampling of those waters involved in the laboratory error.
 - 3) When unknown performance evaluation samples are available, each approved analyst shall analyze at least one per year for the parameters measured. When performance evaluation sample results

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- collection, and analyzed within 2 hours after receipt in the laboratory.
- k) Source water samples shall be held at <10° C and time of initiation of analyses shall not exceed 8 hours from time of collection.

Section 465.380 Standards for Laboratory Pure Water

The following standards shall apply to all laboratory pure water:

a) Laboratory pure water shall have these characteristics:

Property	Value
Conductivity	Less than 2.0 micromhos/cm resistivity greater than 0.5 megohm-cm) + 1% at 25° C
Trace metals:	
Individual metals (Cd, Cr, Cu, Ni, Pb, Zn)	Less than or equal to 0.05 mg/l
Total metals	Less than or equal to 0.1 mg/l
Test for bactericidal properties of distilled water	Ratio of 0.8 to 3.0
Free chlorine residual	None
Heterotrophic plate count	Less than 500/ml

- b) Laboratory pure water shall be analyzed initially and annually thereafter by the test for bacteriological quality of distilled water as specified in "Standard Methods for the Examination of Water and Wastewater." Purchased laboratory pure water shall be sampled in-house; manufacturer's test results shall not be used to establish compliance. Only satisfactorily tested water shall be used in preparing media, reagents, rinse, and dilution water. If the water tested does not meet the testing requirements, the water shall not be used until corrective action has been taken and retesting determines the testing requirements have been met.
- c) Laboratory pure water shall be analyzed monthly for conductance, chlorine residual, and heterotrophic plate count. Heterotrophic plate counts shall be performed as specified in "Standard Methods for the Examination of Water and Wastewater." If the water tested exceeds requirements for these properties, the water shall not be used until corrective action has been taken and retesting determines the testing requirements have been met.

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indicate technical error, the Department will provide appropriate technical assistance to determine the cause and make suggestions for correction of the problem.

- 4) Each analyst approved for the total coliform procedure by the membrane filter technique shall verify quarterly total coliform analyses by swabbing 3 plates from a known positive sample and inoculating lauryl tryptose broth and brilliant green lactose bile broth from each plate. The lauryl tryptose broth and brilliant green lactose bile broth shall be incubated at $35.0^{\circ} \pm 0.5^{\circ} \text{C}$ for 24 to 48 hours. Turbid growth with gas production indicates a positive result.
- 5) Each analyst approved for EC verification shall inoculate quarterly 3 tubes of EC medium with the same swabs used to perform the quarterly total coliform verification. EC medium shall be incubated at $44.5^{\circ} \pm 0.2^{\circ} \text{C}$ for 24 hours.
- 6) Each analyst approved for the fecal coliform procedure by the membrane filter technique shall verify quarterly fecal coliform analyses by picking at least 10 isolated colonies from membranes containing typical blue colonies and transferring to lauryl tryptose broth and EC medium. The lauryl tryptose broth shall be incubated at $35.0^{\circ} \pm 0.5^{\circ} \text{C}$ for 24 to 48 hours. The EC medium shall be incubated at $44.5^{\circ} \pm 0.2^{\circ} \text{C}$ for 24 hours. Turbid growth with gas production indicates a positive result.
- 7) If there is more than one analyst in the laboratory, at least once each quarter each analyst shall count the same heterotrophic plate count plate, total coliform membrane, and fecal coliform membrane (if appropriate). Colony counts between analysts shall agree within 10 percent.
- 8) The standards for laboratory pure water specified in Section 465.380 shall be met.

Section 465.400 Quality Controls for Media, Equipment and Supplies

The following minimum requirements shall apply to quality control checks of laboratory media, equipment, and supplies:

- a) The pH meter(s) shall be clean and calibrated each day of use with pH 4, pH 7 and pH 10 standard buffers. The reading shall be within 0.1 unit for the pH of the third buffer. Alternatively pH 7 and either pH 4 or pH 10 buffers shall be used with percent slope determined. Percent slope shall be 95 to 102%. Each buffer aliquot shall be used only once. Commercial buffer solutions shall be dated on initial use. Do not use past the expiration date. Maintain electrodes according to manufacturer's recommendations.
- b) Balances shall be calibrated monthly using NIST standardized Class "S" or "S-1", or equivalent ASTM 1, 2, or 3, weights. A minimum of 3 weights which bracket the weighing requirements of the laboratory shall be used and these weights shall be recertified every 5 years. A certificate listing correction data shall accompany the weights.

Electronic balances shall be calibrated annually by a qualified service representative who is not affiliated with the laboratory. A certificate of calibration from the service representative should be available for inspection.

- c) Glass thermometers or continuous temperature recording devices for incubators shall be checked at least annually for accuracy and metal thermometers shall be checked at least quarterly for accuracy against an NIST certified thermometer, or one of equivalent accuracy.
- d) Temperature in incubation equipment shall be recorded continuously by a temperature recording device or recorded twice daily (at times separated by at least 4 hours) from in-place thermometers immersed in liquid and placed on the top and bottom shelves of the use area. Temperature readings from walk-in incubators with a continuous temperature recording device shall be supplemented by readings from in-place thermometers placed on various shelves other than where the recorder probe is located.
- e) Date, time, duration, and temperature of autoclaving shall be recorded continuously or recorded for each sterilization cycle. A list of materials sterilized in each cycle shall also be maintained and shall be initialed by the person(s) involved. Charts, if used, are to accompany written records.
- f) Hot air oven(s) shall be equipped with a thermometer registering up to at least 180°C , or with a temperature recording device. The oven thermometer shall be graduated in 10°C increments or less, with the bulb placed in sand during use. Date, time, duration, and temperature shall be recorded for each sterilization cycle. A list of materials sterilized in each cycle shall also be maintained and shall be initialed by the person(s) involved in the sterilization process.
- g) Only membrane filters recommended for water analysis by the manufacturer shall be utilized. Manufacturer data sheets containing information as to lot number, ink toxicity, recovery, retention, and absence of growth promoting substances for membrane filters shall be entered into the laboratory's record system. Membrane filters with new lot numbers shall be compared with membrane filters previously found acceptable using Student's t test. Unacceptable membranes shall be returned to the vendor. The lot numbers of membrane filters and date received shall be recorded.
- h) Washing processes shall provide clean glassware with no stains or spotting. Use distilled or deionized water for final rinse. With initial use of a detergent or washing product and annually thereafter, the rinsing process with distilled or deionized water shall be demonstrated to provide glassware free of toxic material based on the Inhibitory Residue Test as specified in "Standard Methods for the Examination of Water and Wastewater."
- i) A representative piece of each type of glassware or plastic ware from each batch of clean, dried glassware or plastic ware shall be tested for residual alkaline or acid residue using bromothymol blue indicator. If the result of the indicator test is not green,

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corrective action shall be taken by re-rinsing, then air drying and retesting.

- j) At least one bottle per batch of sterilized sample bottles shall be checked for sterility by adding approximately 25 ml of sterile non-selective broth media to each bottle. The bottle shall be capped and rotated so that the broth comes in contact with all surfaces and shall be incubated at $35 \pm 0.5^\circ \text{C}$ for 24 hours prior to checking for growth. Prepared sample bottles from each batch shall not be used unless satisfactory results are obtained from the tested bottle.

- k) At least one bottle per batch of sterilized sample bottles prepared with sodium thiosulfate shall be checked for sufficient amount of the dechlorinating reagent by collecting a potable sample at the laboratory tap, then checking for residual chlorine in compliance with the Sample Collector's Handbook, Illinois Environmental Protection Agency, April 1989. Corrective action shall be taken if there is any residual chlorine, and bottles from the batch checked shall not be used until corrective action has been completed.

- l) Current service contracts or in-house protocols shall be maintained on balances, autoclaves, hot-air sterilization ovens, water stills, deionizers, reverse osmosis apparatus, water baths, incubators, etc. Service records on such equipment shall include the date, name of the servicing person, and a description of the service provided.

- m) Records shall be available for inspection on all batches of sterilized media showing type of medium, lot numbers, date, sterilization time and temperatures, final pH, and name of the person(s) responsible for all or any part of the recorded data. The final pH of the medium shall be:

Media	pH
M-Endo broth	7.2 ± 0.2
M-Endo agar	7.2 ± 0.2
M-Endo LES agar	7.2 ± 0.2
brilliant green	7.2 ± 0.2
lactose bile broth	
P-A coliform test medium	6.8 ± 0.2
EC Medium	6.9 ± 0.2
plate count agar	7.0 ± 0.2
M-FC broth/agar	7.4 ± 0.2
lauryl tryptose broth	
single strength	6.8 ± 0.2
double strength	6.7 ± 0.2

- n) Positive and negative cultures, or a natural water of known pollution, shall be used on each new lot of medium to determine performance compared to a previous acceptable lot of medium. For media which give actual colonies to count, use Student's t test determining acceptability. For all other media check a minimum total of 10 tubes

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each of old and new lot numbers. The results shall differ by no more than 10%.

- o) A maximum registering thermometer shall be used weekly to verify sterilization temperatures within autoclaves and hot-air sterilizing ovens. The oven maximum registering thermometer shall be placed in sand. The autoclave maximum registering temperature shall be placed in a container of water. Use spore strips or ampules on a weekly basis, including a positive control. A record of these results shall be maintained to include the date, material sterilized, and the initials of the analyst involved. Check automatic timing mechanisms on autoclaves quarterly with a stopwatch. For a 15-minute sterilization period, the autoclave time shall be within 60 seconds of the clock time.

- p) When media dispensing apparatus is used, the media preparator shall check and maintain a record of the accuracy of the dispenser with a graduated cylinder at the start of each volume change and periodically throughout extended runs.

- q) The refrigerator temperature shall be determined daily by an accurate thermometer immersed in liquid and placed on the top shelf. The refrigerator unit shall be cleaned at least monthly. Outdated materials in the refrigerator and freezer compartments shall be discarded.

- r) Ultraviolet sterilization lamps shall be tested quarterly by exposing agar spread plates containing 200 to 250 microorganisms to the light for 2 minutes. If such irradiation does not reduce the count of control plates by 99 percent, the lamps shall be replaced. Cleaning of ultraviolet sterilization lamps shall be done at least monthly by disconnecting the unit and cleaning the lamps with a soft cloth moistened with ethanol.

- s) Water baths shall be cleaned at least monthly. The use of distilled or deionized water for water baths is recommended.

- t) Media shall be used on a first in, first out basis. Records shall be kept of the kind, amount, date received, and date opened for bottles of media. The date opened and the date received shall be written on the bottles. Bottles of media shall be used within 6 months after opening, except that media stored in a desiccator may be used up to one year after opening. It is recommended that media be ordered in quantities to last no longer than one year, and that media be ordered in quarter pound multiples rather than one pound bottles in order to keep the supply sealed and protected as long as possible. Any media that has passed the manufacturer's expiration date shall be discarded.

- u) Conductivity meters shall be calibrated monthly with a 0.01 M KCl solution or lower concentration if desired. The meter reading shall be within 1% of the value of the standard. Calibration is not required for in-line conductivity meters, unless used to determine compliance with quality control requirements.

- a) All records shall be initialed or signed by the person or persons responsible for recording all or any part of the data, or performing the various tests.
- b) Either each unit shall be responsible for maintaining its own records, or all records shall be maintained in a general laboratory log book.
- c) The laboratory shall record arrival time and date received in the laboratory, time and date of analysis, direct count, membrane filtration, verified count, MTF completed count, analyst's name, and other special information on each sample report form.
- d) A careful check shall be made to verify that each result is entered accurately from the bench sheet onto the sample report form. The sample report form shall be initialed or signed by the person who verified the entry of information from the bench sheet.
- e) All forms used in the laboratory for both sample reporting and quality control shall be approved by the certification officer to insure that data is recorded in a format that is easily interpreted and that contains all necessary information.

Section 465.420 Record Maintenance

- a) All records that the laboratory is required to maintain shall be recorded in ink with any changes lined through so that the original entry is visible. Changes shall be initialed and dated. Documentation supporting all corrections on records shall be maintained.
- b) A copy of the sample report form shall be maintained by the laboratory for at least 5 years. If results are entered into a computer storage system, a printout of the data shall be returned to the laboratory for verification with bench sheets.
- c) Records of bacteriological analyses shall be kept for at least 5 years. Actual laboratory reports may be kept. However, data may be transferred to tabular summaries which shall include the following information:
- 1) Date, place, and time of sampling;
 - 2) Name of person who collected the sample;
 - 3) Identification of the sample origin, such as routine distribution sample, resample, construction sample, raw or process water sample, surface or ground water sample, or other special purpose sample;
 - 4) Date and time of receipt of sample in the laboratory;
 - 5) Records necessary to establish chain-of-custody of the sample;
 - 6) Date and time of sample analysis;
 - 7) Name of the persons and designation of the laboratory responsible for performing the analysis;
 - 8) Designation of the analytical techniques or methods used; and
 - 9) Results of the analysis.
- d) The disposal of all records subject to the Local Records Act [50 ILCS 205] must be in accordance with the provisions of that Act.

Section 465.430 Action Response to Laboratory Results

For laboratory results concerning samples from public water supplies and their sources, presumptive positive microbiological test results are to be reported to the Illinois Environmental Protection Agency and the public water supply as preliminary without waiting for membrane filter verification or MTF completion. After membrane filter verification or MTF completion or both, the adjusted results shall be reported. The Illinois Environmental Protection Agency and the public water supply shall be notified when results indicate that noncoliforms may have interfered with the total coliform analysis.

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Section 465.APPENDIX A Colisure P/A and Colisure Multiple Tube P/A

I. Storage

Store at 2.0° - 4.0° C. Discard on or before expiration date on product package.

II. Quality Control Testing

1A. Colisure P/A

Add 100 ml of sterile laboratory pure water to the medium in one 125 ml bottle. Shake to dissolve. Transfer a 20 ml aliquot to each of 4 25 ml sterile glass tubes.

2A. Colisure Multiple Tube P/A

Rehydrate 3 vials with 20 ml of sterile laboratory pure water. Shake to dissolve.

B. Test by inoculating with *E. coli*, a total coliform other than *E. coli*, and a non-coliform. If *Pseudomonas* is used as the non-coliform, use a nonfluorescent species. Use the uninoculated tube as an additional control.

C. Incubate at $35^{\circ} \pm 0.5^{\circ}$ C for 28 hours and observe for the following results:

Organism	Color	Fluorescence
<i>E. coli</i>	Red or magenta	Positive
Coliform (non- <i>E. coli</i>)	Red or magenta	Negative
Non-coliform	Yellow	Negative
None	Yellow	Negative

III. Test Procedure

A. Allow medium and samples to reach room temperature.

B. Add a 100 ml water sample to the bottle containing the dehydrated Colisure medium for a single bottle test. Then recap the bottle.

OR

Add a 20 ml water sample to each of the 5 tubes containing the dehydrated Colisure medium for a multiple tube test. Then recap each tube.

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C. Shake and invert the bottle or tube(s) to thoroughly mix the contents. The solution will appear yellow with a fine precipitate.

D. Incubate the bottle or tube(s) at $35^{\circ} \pm 0.5^{\circ}$ C for 28 hours.

IV. Interpretation

A. Check each tube or bottle visually for color.

Color	Interpretation
Red or magenta	Coliform Positive
Pale red/orange	Re-incubate up to 48 hours
No change (yellow)	Coliform Negative

B. Examine each positive result for fluorescence using a long wave (366 nm) ultraviolet light. If the solution glows a uniform, bright, light blue throughout the bottle or tube, fluorescence is present. This indicates the presence of *E. coli*.

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1) Heading of the Part: Joint Rules of the Illinois Environmental Protection Agency, the Illinois Department of Public Health, and the Illinois Department of Nuclear Safety: Certification and Operation of Environmental Laboratories

2) Code Citation: 35 Ill. Adm. Code 190

3) Section Numbers: Proposed Action:
Not Applicable Not Applicable

4) Statutory Authority: Implementing and authorized by Section 1401(1)(d) of the Safe Drinking Water Act (42 USC 300f(1)(D)), Subpart C of the National Primary Drinking Water Regulations (40 CFR 141.21 through 141.30 (1991)), the Illinois Environmental Protection Act (415 ILCS 5) and the Civil Administrative Code of Illinois [20 ILCS 5].

5) Effective Date of Amendments: July 15, 1998

6) Does this Rulemaking Contain an Automatic Repeal Date? No

7) Does this Rulemaking Contain any Incorporation by Reference? Yes

8) A copy of the Adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: January 9, 1998; 22 Ill. Reg. 1106

10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking: No

11) Difference Between Proposal and Final Version: There are no differences between the proposal and final version of this rulemaking.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? No changes were requested by the Joint Committee.

13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) Summary and Purpose of Amendments: The Department of Public Health, the Department of Nuclear Safety and the Illinois Environmental Protection Agency are repealing the current joint rules promulgated at 35 Ill. Adm. Code 183. This Part is a cross reference to the joint rulemaking at Part 183. It has been determined by all three agencies that in order to best

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED REPEALER

serve the interests of the affected community, each agency should implement its own rulemaking relating to certification of laboratories. The Department is promulgating new rules at 77 Ill. Adm. Code 465, that will replace this Part and the provisions of the joint rules at Part 183. The notice of repealer for Part 183 is also published in this issue of the *Illinois Register*.

Information and Questions Regarding these Adopted Amendments shall be directed to:

Gail M. DeVito
Administrative Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761
(217) 782-2043
E-mail: rules@idph.state.il.us

CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY REPEALER

1) Heading of the Part: Procurement Practices2) Code Citation: 44 Ill. Adm. Code 910

3) Section Numbers: Emergency Action:
910.110 Repealed
910.120 Repealed
910.150 Repealed

4) Statutory Authority: Implementing and authorized by Sections 9.06 and 16 of the Capital Development Board Act [20 ILCS 3105/9.06 and 3105/16] and the Illinois Procurement Code [30 ILCS 500].

5) Effective date of Rules: July 16, 1998

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rule will expire at the end of the 150-day period.

7) Date Filed with the Index Department: July 16, 1998

8) A statement that a copy of the adopted rulemaking including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection. This rulemaking is on file at the Capital Development Board's office and available for public inspection.

9) Reason for Emergency: CDB is repealing the old Part and adopting a new Part to reflect the requirements of the Illinois Procurement Code [30 ILCS 500] they took effect July 1, 1998.

10) A complete description of the Subjects and Issues Involved: New emergency rules published in this issue of the Illinois Register will replace this emergency repealer.

11) Are there any proposed amendments pending on this Part other than those appearing in the same issue of the Register as the emergency rules? No

12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30ILCS 805/3(b)].

13) Information and questions regarding this rule shall be directed to:

Fredrick W. Hahn, Chief Counsel
Capital Development Board
3rd Floor, Wm. G. Stratton Building
Springfield IL 62706
Telephone: 217/782-0700

CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY REPEALER

The full text of the Emergency Repealer begins on the next page:

CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY REPEALER

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND
PROPERTY MANAGEMENT

SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES

CHAPTER XII: CAPITAL DEVELOPMENT BOARD

PART 910

PROCUREMENT PRACTICES (REPEALED)

Section

910.110 Purchasing Act

910.120 Contracts

910.130 Prequalification (Repealed)

910.140 Suspension (Repealed)

910.150 Use of Department of Central Management Services

910.160 Severability (Repealed)

AUTHORITY: Implementing and authorized by Sections 9.06 and 16 of the Capital Development Board Act [20 ILCS 3105/9.06 and 16] and authorized by Sections 5 and 6 of the Illinois Purchasing Act [30 ILCS 505/5 and 6].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1890, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20324, effective October 1, 1984; amended at 9 Ill. Reg. 17332, effective October 29, 1985; amended at 12 Ill. Reg. 9864, effective May 27, 1988; amended at 13 Ill. Reg. 8403, effective May 22, 1989; amended at 22 Ill. Reg. 1169, effective January 1, 1998, repealed by emergency rulemaking at 22 Ill. Reg. 14323, effective JUL 16 1998, for a maximum of 150 days.

Section 910.110 Purchasing Act

The principles of competitive bidding and economical procurement practices shall be applicable to all construction contracts of the Board, and all purchases, contracts and expenditure of funds shall be made in accordance with the Illinois Purchasing Act (Ill. Rev. Stat. 1983, ch. 127, par. 132.1, et seq.), and all other applicable construction statutes. The Standard Procurement Rules of the Department of Central Management Services, as now or hereafter amended, will govern the procurement practices of the Capital Development Board to the extent that such Rules are not in conflict with the Rules and procedures of the Capital Development Board. In the event of conflict, the Rules and procedures of the Capital Development Board shall apply.

(Source: Amended at 8 Ill. Reg. 20324, effective October 1, 1984)

Section 910.120 Contracts

Solicitation for bids shall be in conformance with accepted business practices,

CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY REPEALER

and contracts shall be awarded in accordance with the guidelines set forth in "Standard Documents for Construction" used by the Board unless otherwise specified in the advertisement for bids published in the Official State Newspaper.

(Source: Amended at 8 Ill. Reg. 20324, effective October 1, 1984)

Section 910.130 Prequalification (Repealed)

(Source: Repealed at 22 Ill. Reg. 1169, effective January 1, 1998)

Section 910.140 Suspension (Repealed)

(Source: Repealed at 22 Ill. Reg. 1169, effective January 1, 1998)

Section 910.150 Use of Department of Central Management Services

All office supplies, equipment and commodities and commodities required for the operation of the Capital Development Board shall be purchased in accordance with Standard Procurement Rules of the Department of Central Management Services.

(Source: Amended at 8 Ill. Reg. 20324, effective October 1, 1984)

Section 910.160 Severability (Repealed)

(Source: Repealed at 22 Ill. Reg. 1169, effective January 1, 1998)

CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY RULES

1) Heading of the Part: Procurement Practices2) Code Citation: 44 Ill. Adm. Code 9103) Section Numbers: Emergency Action:

910.090 New Section
 910.100 New Section
 910.110 New Section
 910.120 New Section
 910.130 New Section
 910.140 New Section
 910.150 New Section
 910.160 New Section
 910.170 New Section
 910.180 New Section
 910.190 New Section
 910.200 New Section
 910.210 New Section

4) Statutory Authority: Implementing and authorized by Sections 9.06 and 16 of the Capital Development Board Act [20 ILCS 3105/9.06 and 3105/16] and the Illinois Procurement Code [30 ILCS 500].

5) Effective date of Rules: July 16, 1998

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rule will expire at the end of the 150-day period.

7) Date Filed with the Index Department: July 16, 1998

8) A statement that a copy of the adopted rulemaking including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection. This rulemaking is on file at the Capital Development Board's office and available for public inspection.

9) Reason for Emergency: This rulemaking reflects the new requirements of the Illinois Procurement Code [30 ILCS 500] which took effect July 1, 1998.

10) A complete description of the Subjects and Issues Involved: This rulemaking implements and applies the requirements contained in the Illinois Procurement Code [30 ILCS 500] as they affect the contract procurement procedures of the Capital Development Board.

11) Are there any proposed amendments pending on this Part other than those appearing in the same issue of the Register as the emergency rules: No

CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY RULES

12) Statement of Statewide Policy Objectives: This emergency amendment does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

13) Information and questions regarding this rule shall be directed to:

Fredrick W. Hahn, Chief Counsel
 Capital Development Board
 3rd Floor, Wm. G. Stratton Building
 Springfield, IL 62706
 217/782-0700

The full text of the emergency rules begins on the next page:

CAPITAL DEVELOPMENT BOARD
NOTICE OF EMERGENCY RULES

at 22 Ill. Reg. **14333**, effective July 16, 1998, for a maximum of 150 days.

Section 910.90 Authority
EMERGENCY

- a) The Executive Director of the Capital Development Board (CDB) is established in the Illinois Procurement Code ("Code") [30 ILCS 500] as the Chief Procurement Officer for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of CDB. The Executive Director may appoint State Purchasing Officers to carry out any or all of the procurement functions.
- b) CDB is established by the Code as the construction agency for construction or remodeling of State-owned facilities. CDB may similarly act as may be provided by law or when so authorized at the request of another agency, whether State, local or federal.
- c) CDB may delegate its authority, by agreement or master contract, as authorized by law and only with the concurrence of the Executive Director.

Section 910.100 Definitions
EMERGENCY

The following definitions shall apply to this Part:

"Bid" - An offer made by a bidder in response to a contract item advertised in an Invitation for Bids.

"Board" - Capital Development Board.

"Change Order" - A formal, written directive or agreement that amends a contract in order to address contingencies affecting the performance and completion of the contract, including but not limited to such matters as extra work, increases or decreases in quantities, additions or alterations to plans, special provisions or specifications, and adjustments or alterations specifically provided for in the contract.

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Contract" - A written agreement between the Board and the contractor comprising such documents as set forth in each individual agreement, including change orders, and setting forth the obligations of the parties for the performance of the contract.

"Day" - A calendar day.

"Germane" - In relationship to the modification, alteration or

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NOTICE OF EMERGENCY RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND
PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XII: CAPITAL DEVELOPMENT BOARD

PART 910
PROCUREMENT PRACTICES

Section	Authority
910.90	EMERGENCY
910.100	Definitions
910.110	Procurement Code
910.120	Contracts
910.130	Bidding
910.140	Protests
910.150	Alternative Procurement Methods
910.160	Alternative Dispute Resolution
910.170	Use of Department of Central Management Services
910.180	Retention Trust
910.190	Change Orders or Modifications
910.200	Use of Funds
910.210	Suspension and Debarment
EMERGENCY	

AUTHORITY: Implementing and authorized by Sections 9.06 and 16 of the Capital Development Board Act [20 ILCS 3105/9.06 and 16] and the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1890, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20324, effective October 1, 1984; amended at 9 Ill. Reg. 17332, effective October 29, 1985; amended at 12 Ill. Reg. 9864, effective May 27, 1988; amended at 13 Ill. Reg. 8403, effective May 22, 1989; amended at 22 Ill. Reg. 1169, effective January 1, 1998; old Part repealed and new Part adopted by emergency rulemaking

CAPITAL DEVELOPMENT BOARD

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amendment of the terms of a contract by change order, the term "germane" means a change that is related to the original terms of the contract but that is not so substantial a departure from the original as to constitute a new contract.

"Responsible" - The capability, integrity and reliability of a bidder, offeror or contractor, in all respects that will assure good faith performance, to undertake and complete fully the requirements of a contract.

"Responsive" - In the context of bidding procedures, the compliance in all meaningful, material respects with the Invitation for Bids.

"Small Business" for purposes of determining whether at least 25% of the annual total value of CDB projects constitutes income to a small business, a small business is:

A direct contractor or subcontractor in a construction contract or a contract for professional architectural or engineering services; and

A firm with annual sales and receipts not exceeding \$3,000,000; and

A firm that is independently owned and operated; and

A firm that is not dominant in its field of operations; and

A firm that is otherwise qualified to do business with CDB.

"Specifications" - The body of directions, provisions, and requirements for performance of prescribed work. Specifications includes the Standard Documents for Construction for general application and repetitive use as well as specifications applicable to a specific project.

"User Agency" - the governmental agency or other entity for whom CDB carries out a construction project.

Section 910.110 Procurement Code

EMERGENCY

a) General

The principles of competitive bidding and economical procurement practices shall be applicable to all construction contracts of the Board, and all purchases, contracts and expenditure of funds shall be made in accordance with the Illinois Procurement Code [30 ILCS 500] and all other applicable statutes. The Standard Procurement Rules of

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the Department of Central Management Services (44 Ill. Adm. Code 1) will govern the procurement practices of the Capital Development Board to the extent that such rules are not in conflict with the rules and procedures of the Capital Development Board. In the event of conflict, the rules and procedures of the Capital Development Board shall apply. General conditions for procurements shall be set forth in CDB's contract documents, which include the Standard Documents for Construction.

b) Procurement Bulletin

CDB is responsible under the Code for publishing a volume of the Illinois Procurement Bulletin. CDB's bulletin is available electronically via the Internet (www.cdb.state.il.us) in two parts. One part entitled "Bid Information Newsletter" for construction contracts and the other entitled "Professional Services Bulletin" for architect/engineer services. CDB's Procurement Bulletin will be published or updated at least monthly but may be updated more frequently.

Section 910.120 Contracts

EMERGENCY

Solicitation for bids shall be in conformance with the Illinois Procurement Code, the rules of the Department of Central Management Services or CDB, and with accepted business practices. Contracts shall be awarded in accordance with those authorities and with the guidelines set forth in "Standard Documents for Construction" used by the Board unless otherwise specified in the advertisement for bids published in the Procurement Bulletin, or as authorized by law.

Section 910.130 Bidding

EMERGENCY

a) Bidding on CDB contracts shall be as prescribed by law and this Part. Bids, which includes requests for proposals or submittals, or any similar solicitation for a submittal to be evaluated for selection, shall be on CDB's forms or as CDB may otherwise permit. Procedures for bid openings, cancellation of bids, evaluation of bids, correction or withdrawal of bids and award of contracts are contained in the CDB's Standard Documents for Construction. All CDB contracts will identify the version of the Standard Documents for Construction applicable to the contract. Specifications for materials and products will reflect the needs of CDB, and the User Agency, and will describe the technical and/or performance requirements necessary to complete the work.

b) Solicitation for architects/engineers (A/Es), or related professionals, shall be in accordance with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and CDB's rules (44 Ill. Adm. Code 1000).

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- c) Brand name only product specifications, including patented or proprietary products, will not be used, unless:
- 1) such products may be procured competitively with equally suitable nonbrand-name products; or
 - 2) such products are necessary for compatibility with existing facilities; or
 - 3) no equally suitable alternate exists; or
 - 4) such products are to be used for research or for a distinctive type of application for experimental purposes.

Section 910.140 Protests**EMERGENCY**

The procedures of this Section will govern the resolution of protests received by the Board from an interested party concerning a contract solicitation.

- a) Interested Party
- In order to be considered an interested party, the protester must be or have been an actual bidder or offeror who demonstrates compliance in all respects with this Part and the terms of the subject Invitation for Bids or Request for Proposals.
- b) Subject of the Protest
- 1) A protest may be filed regarding any phase of the solicitation process for a particular contract.
 - 2) The subject of the protest shall concern fraud, corruption or illegal acts undermining the objectives and integrity of the procurement process.
 - 3) Protest procedures of this Section do not apply to issues of prequalification, suspension or debarment.
- c) Filing of a Protest

- 1) All protests shall be in writing and filed with the Chief Procurement Officer within 10 days after the protester knows or should have known of the facts giving rise to the protest. Protests filed after the 10 day period will not be considered. In addition, protests that raise issues of fraud, corruption or illegal acts affecting specifications, special provisions, supplemental specifications and plans must be received by the Chief Procurement Officer no later than 10 days before the date set for opening of bids. For purposes of this requirement, deposit in the mail, postage prepaid does not constitute filing or receipt.

- 2) The protest shall be contained in an envelope clearly labeled "Protest." The written protest shall include as a minimum the following requirements:

- A) The name, address, telephone and facsimile numbers of the protester.
- B) The identification of the procurement or solicitation that is the subject of the protest.
- C) All information establishing that the protester is an

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- interested party.
- D) A detailed statement of the factual and legal grounds of the protest, including all relevant documents and exhibits that demonstrate fraud, corruption or illegal acts having the effect of undermining the integrity of the procurement process.
- E) All information establishing the timeliness of the protest.
- F) The signature of the protester.
- d) Stay of Action during Protest
- When a protest has been timely filed and before an award has been made, CDB will make no award of the contract until the protest has been resolved, unless the award of the contract without delay is necessary to protect the interests of the State. When a protest has been filed after an award has been made, the protest will be denied.
- e) Decision
- 1) A decision on a protest will be made as expeditiously as possible after receiving all relevant information.
 - 2) The protest will be sustained only if it is determined by the Chief Procurement Officer that the protest conclusively demonstrates by the preponderance of relevant information submitted that fraud, corruption or illegal acts have occurred that undermine the integrity of the procurement process.
 - 3) If the protest is sustained, the remedies available are limited to cancellation or revision of the solicitation, or readvertisement of the solicitation. Relief available does not include award of the contract to the protester.
 - 4) The decision of the Chief Procurement Officer is final and conclusive unless clearly erroneous, arbitrary, capricious or contrary to law. (See Section 20-75 of the Code.)

Section 910.150 Alternative Procurement Methods**EMERGENCY**

In lieu of competitive sealed bidding, CDB shall procure goods and services by the following or as otherwise allowed by statute or rule:

a) Small Contracts

Individual contracts for supplies or services from any one source that do not exceed \$10,000 may be made without notice, competition or use of other method of procurement prescribed in the Code or this Part. Contracts for professional and artistic services that do not exceed \$20,000 for a nonrenewable term will be procured in accordance with this Section.

- 1) Construction contracts, construction supply contracts, construction-related service contracts and change orders made thereto that do not exceed \$30,000 may be procured without notice, competition or use of any other method of procurement prescribed in the Code or this Part.
- 2) Section 20-20(c) of the Code authorizes the establishment of a

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threshold higher than the small purchase limit established in the Code. The threshold established determines the level above which a method of procurement prescribed in the Code and this Part will be used. Additionally, Section 30-35 of the Code provides that a construction contract change order may cause the obligation or expenditure of funds in excess of the original contract price provided that the subject of the change order is germane to the original contract. Section 30-35 of the Code further establishes the manner in which the amount of additional expenditure or obligation will be determined and authorized by the Board. In order to give full effect to the intention of Section 20-20(c) and the provisions of Section 30-35 of the Code, CDB will approve construction contract change orders and the obligation or expenditure of additional funds in accordance with the following requirements and thresholds:

- A) A construction contract change order that causes the obligation or expenditure of more than \$30,000 in excess of the contract price will not be authorized unless the object of the change order is germane to the original contract.
- B) Determination of germaneness and the amount of additional expenditure or obligation thresholds will be determined in accordance with this Part and Section 30-35 of the Code.
- C) Prior written approval will be made by the Board if the contemplated construction contract change order will cause an expenditure or obligation of funds of more than \$30,000 in excess of the contract price. The written approval will state the reasons for the additional obligation or expenditure and the basis for the germaneness determination.
- D) For purposes of determining the scope of the change order and the value thereof that is subject to the requirements of this Section, the Board will consider the total net value of all added and deducted work functions related to the object of the change order and the work of the contract to be affected.
- E) Notice of approved construction contract change orders in excess of \$30,000 will be published in the Capital Development Board Procurement Bulletin.
- 2) Estimated needs shall not be divided in any manner to avoid the use of an established method of procurement. (See Section 20-20(a) of the Code.)

b) Emergency Contracts

- 1) A contract may be procured without the use of any other method of procurement prescribed in the Code or this Part when there exists a threat to public health or safety, or when an immediate contract is needed to repair State property in order to prevent or minimize loss or damage to State property, or to prevent or minimize serious disruption in State services, including but not limited to completion of a defaulted contract, or to ensure the

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NOTICE OF EMERGENCY RULES

- 2) integrity of State records. (See Section 20-30(a) of the Code.) For purposes of this Section, State property includes all property both real and personal. State records includes all records regardless of the form of storage. State services include, but are not limited to, all activities committed by law to the jurisdiction or responsibility of the Board, whether provided directly or indirectly by means of contract or intergovernmental agreement. Change orders to existing contracts that are necessary to complete the contract, and that can best be accomplished by the contract holder, may be procured under this Section.
- 3) The Board will employ such competition as is practical under the emergency circumstances to abate the emergency situation, including the use of existing contracts.
- 4) Section 20-30(a) of the Code requires a written description of the basis for the emergency and reasons for the selection of the particular contractor to be included in the contract file. Section 20-30 of the Code further requires an affidavit to be filed with the Auditor General setting forth the amount expended, the name of the contractor and the basis for the emergency. For purposes of Board emergency procurements, the Code-required affidavits will serve as the Code-required written descriptions retained in the contract file, and for purposes of publication notice as required by Code.

c) Sole Source Contracts

- 1) A contract may be procured from a single source contractor without competition or use of any other method of procurement prescribed in the Code or this Part when the single source contract is the only economically feasible source capable of providing the services, including professional and artistic services, contemplated or the material or product to be supplied. (See Section 20-25 of the Code.)
- 2) A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. Examples of circumstances that could necessitate sole source procurement include but are not limited to:
 - A) when the compatibility of equipment, accessories, replacement parts, or service is a primary consideration;
 - B) when trial use, testing or the development of new technology is the object of the procurement;
 - C) when a sole supplier's item is to be procured for commercial resale;
 - D) when utility services are to be procured;
 - E) when the surety providing a performance bond tenders a completion contractor, acceptable to the Board, to complete a defaulted contract;
 - F) when the item is copyrighted or patented and the item is not

CAPITAL DEVELOPMENT BOARD

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available except from the holder of the copyright or patent or service area licensee; and

G) when utility or other private property is to be relocated or otherwise adjusted by the owner to accommodate a Board project.

3) Change orders to existing contracts germane to the original contract that are necessary or desirable to complete the project, and that can be best accomplished by the contract holder, may be procured under this Section.

4) The Board shall publish notice of intent to contract on a sole source basis in the Capital Development Board Procurement Bulletin at least 14 days prior to execution of the contract. (See Section 20-25 of the Code.)

d) Illinois Correctional Industries Procurement from Illinois Correctional Industries constitutes contracting between State governmental bodies, exempt from Procurement Code requirements, and shall be done in accordance with CMS rules and this Part. Such procurements may utilize an annual master contract with agreed-upon unit prices for construction services, against which sub-orders may be placed for specific CDB projects.

e) Art-in-Architecture Program Procurement Works of art procured for CDB construction projects pursuant to provisions of the Capital Development Board Act [20 ILCS 3105/14] are construction procurements under the Illinois Procurement Code [Section 1-15.20] and shall be selected by the Capital Development Board and the Fine Arts Review Committee in accordance with the requirements of the Code, the Capital Development Board Act, and CDB rules, and with written procedures established by the Art-in-Architecture Program.

Section 910.160 Alternative Dispute Resolution EMERGENCY

To resolve disputes related to the performance of construction projects, whether in design phase or construction phase, the parties to the dispute shall utilize alternative dispute resolution methods as required by the contract or bid documents. At a minimum, alternative dispute resolutions shall be a condition precedent to the filing of any court action valued in excess of \$50,000. This Section shall not apply to mechanics lien actions, unless the parties thereto so consent, nor to contract terminations.

Section 910.170 Use of Department of Central Management Services EMERGENCY

All office supplies, equipment and commodities required for the operation of the Capital Development Board shall be purchased in accordance with Standard Procurement Rules of the Department of Central Management Services and pursuant to the appointment by CMS of a State Purchasing Officer.

CAPITAL DEVELOPMENT BOARD

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Section 910.180 Retention Trust EMERGENCY

a) Contractors may elect to have retention deposited in a trust provided that:

- 1) The project is funded by direct appropriation to CDB;
- 2) the contract exceeds \$300,000; and
- 3) the specified contract time is 360 calendar days or longer.

b) Retention Trust Agreement must be entered into before application by the contractor for the first payment. The agreement will include, but not be limited to the following:

- 1) the amount to be deposited;
- 2) terms and conditions of payment in case of default by the contractor;

- 3) termination upon completion, default, or other breach; and
- 4) the contractor's responsibility for obtaining banks consenting and paying all costs and fees associated with the trust.

c) Only CDB's retention trust agreement form is acceptable. In the event the contractor fails to deliver the trust agreement duly executed by the contractor and the bank prior to, or at the time of, receipt of the first partial payment, CDB may not execute the trust agreement. CDB may cancel the retention trust agreement for reason of non-performance and demand return of any deposits by the bank.

Section 910.190 Change Orders or Modifications EMERGENCY

a) The Board shall by resolution set staff approval levels for change orders or modifications with Board approval required for amounts deemed significant enough to be appropriate for Board-level approval of change orders or modifications, when CDB determines in writing that a change is germane to the original contract

b) Proposed change orders or modifications that are determined by CDB to not be germane to the original contract shall be procured in accordance with the Code and CDB rules.

c) Change orders and modifications shall be reported in CDB's Procurement Bulletin.

Section 910.200 Use of Funds EMERGENCY

CDB construction funds shall not be used for routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property, which would typically be covered by operation and maintenance funds of the user agency nor for reimbursement of user agencies for administration, staff, or other costs.

Section 910.210 Suspension and Debarment

CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY RULES

EMERGENCY

Any person or firm prequalified with CDB may be suspended for a period up to 5 years, or may be debarred for a period of 5 years up to a permanent debarment in accordance with 44 Ill. Adm. Code 980. Causes for suspension or debarment are set forth in the Code, other statutes, and 44 Ill. Adm. Code 980.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Professional Boxing and Wrestling Act

- 2) Code Citation: 68 Ill. Adm. Code 1370

- 3) Section Numbers: Emergency Action:
1370.315 New Section
1370.325 Amendment

- 4) Statutory Authority: Professional Boxing and Wrestling Act [225 ILCS 105]

- 5) Effective Date of Rules: 7/16/98

- 6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they will expire: These emergency rules are to expire when the proposed rules are adopted.

- 7) Date Filed in Agency's Principal Office: 7/16/98

- 8) Reason for Emergency: Public Act 90-580 provides for the Department of Professional Regulation to license closed circuit telecasts, while Public Act 89-578 directs the Department, in consultation with the Board, to define "ultimate fighting."

- 9) A Complete Description of the Subjects and Issues Involved: The rules previously provided for the licensure of closed circuit events and the selling of tickets to those in attendance. In this era, however, with satellite technology now widely available, virtually any bar or restaurant can obtain these telecasts. This proposed rulemaking brings the rules into conformity with the reality of how these events are distributed commercially. The General Assembly also acted to ban "ultimate fighting" in the State of Illinois; this rulemaking defines "ultimate fighting" so that the ban can be enforced.

- 10) Are there any Proposed Amendments to this Part pending: No

- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local government.

- 12) Information and questions regarding these Rules shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax #: 217/782-7645

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1997

DEPARTMENT OF PROFESSIONAL REGULATION
NOTICE OF EMERGENCY AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1370
PROFESSIONAL BOXING AND WRESTLING ACT

SUBPART A: STATUTORY AUTHORITY

Section
1370.10 Statutory Authority

SUBPART B: BOXING

Section
1370.20 Application for Licenses
1370.30 Structure of Ring
1370.40 Classes and Weights of Boxers
1370.50 Fight Preparations
1370.60 Ring Equipment
1370.70 Conduct of a Contest
1370.80 Scoring
1370.90 Knockdowns
1370.100 Fouls
1370.110 Use of substances that alter performance; Stopping bleeding
1370.120 Conduct of Ring Officials

SUBPART C: WRESTLING

Section
1370.200 Applications for Licenses
1370.210 Structure of Ring
1370.220 Preparations for an Exhibition
1370.230 Conduct of an Exhibition
1370.240 Length of an Exhibition
1370.250 Scoring
1370.260 Holds
1370.270 Wrestler out of ring
1370.280 Disqualification
1370.290 Australian Tag Team Wrestling
1370.300 Medical Supervision

SUBPART D: GENERAL PROVISIONS

Section
1370.310 Definitions
1370.320 Applications for Permits
1370.315 Ultimate Fighting Exhibition

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION
NOTICE OF EMERGENCY AMENDMENTS

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY1370.325 Requirements for Closed Circuit Telecasts Promotions

EMERGENCY
 1370.330 Compensation
 1370.340 Payment of Taxes
 1370.350 Public Safety
 1370.360 Renewals
 1370.370 Granting Variances

AUTHORITY: Implementing the Professional Boxing and Wrestling Act [225 ILCS 105] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Emergency rules adopted at 5 Ill. Reg. 11100, effective October 1, 1981, for a maximum of 150 days; adopted at 6 Ill. Reg. 8978, effective July 15, 1982; emergency amendment at 11 Ill. Reg. 21008, effective December 9, 1987, for a maximum of 150 days; transferred from Chapter I, 68 Ill. Adm. Code 370 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1370 (Department of Professional Regulation) pursuant to P.A. 85-225 effective January 1, 1988, at 12 Ill. Reg. 2969; amended at 12 Ill. Reg. 11452, effective June 27, 1988; emergency amended at 22 Ill. Reg. **14346**, effective July 16, 1998, for a maximum of 150 days.

SUBPART D: GENERAL PROVISIONS

Section 1370.315 Ultimate Fighting ExhibitionEMERGENCY

- a) Pursuant to Section 7.5 of the Act, ultimate fighting exhibitions are prohibited in the State of Illinois.
- b) "Ultimate fighting exhibition" means any competition, contest or exhibition that involves any physical combat bout with few or no restrictions on the tactics or techniques used, between two or more individuals who attempt to defeat the opponent by using elbow strikes, kicking, choking, bare knuckles, boxing, wrestling, martial arts techniques or any combination of these techniques or tactics, excluding contests or exhibitions that are authorized by the Act and this Part or exempted by Section 6 of the Act.
- c) Any licensee/registrant holding or promoting an ultimate fighting exhibition, or participating in an ultimate fighting exhibition as a promoter, contestant, second, referee, judge, scorer, manager, trainer, announcer, or timekeeper, may be subject to discipline pursuant to Section 16 of the Act.
- d) The Department shall enter an order of cease and desist to any individual or entity involved in an ultimate fighting exhibition. If the order is ignored, the Department may send such order to the Attorney General or State's Attorney for civil or criminal enforcement with respect to prohibited exhibitions and/or the Department may file

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF EMERGENCY AMENDMENTS

a) a complaint for imposition of civil penalties for violation of the Act.

- e) A person who is guilty of violating this Section is guilty of a Class A Misdemeanor. On conviction of a second or subsequent offense, the violator shall be guilty of a Class 4 felony.

(Source: Added by emergency rulemaking at 22 Ill. Reg. **14346**, effective July 16, 1998, for a maximum of 150 days)

Section 1370.325 Requirements for Closed Circuit Telecasts Promotions
EMERGENCY

- a) Closed circuit telecasts for boxing and wrestling exhibitions shall be held by promoters licensed in accordance with Sections 1370.20 and 1370.200 of this Part.
- b) To show unlimited closed circuit events for one year, a licensed promoter shall file an application with the Department, on forms provided by the Department, along with a \$400 per year registration fee.
- c) In addition, for each event to be telecast, the promoter shall pay to the Department a \$25 fee for each location where the boxing contest or wrestling exhibition is shown.
- b) A licensed promoter shall obtain a permit for each location where a viewing of a closed circuit telecast ("telecast") is to be held:
- i) the application shall be filed with the Department on forms provided by the Department, twenty (20) days before each telecast; the applicant shall provide in addition to the application and a \$25 permit fee:
- A) a copy of the lease or proof of ownership of the property where the telecast is to be held and the safety inspection report of the property from the fire department or building manager;
- B) a letter from the security agency contracted to provide security for the telecast, stating the number of guards they intend to use at the location on that date;
- C) notarized printer's manifest stating the date, location, time and amount of ticket sales; tickets must be numbered on both ends by the printer; in the event the building supplies electrical printing of tickets, a printout of the close out must be given to the Department representative on the date of the event, and
- B) a refund plan if the telecast is cancelled or if the equipment malfunctions and the telecast ceases:
- 2) A representative of the Department will be present at each location where a telecast is held; A ticket printout shall be given to this representative indicating the price and number of tickets sold; Where hardstock is used the representative will count the unsold tickets to determine the amount of 5% state tax

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF EMERGENCY AMENDMENTS

~~due-on-the-evening-of-the-event-in-accordance-with-Section-13-of the-Act.~~

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 14343, effective July 16, 1998, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 1998 REGULATORY AGENDA

a) Part(s)(Heading and Code Citation): Pay Plan (80 Ill. Adm. Code 310)

1) Rulemaking(s):

A) Description: Projected amendments to the Department of Central Management Services' Pay Plan will include revisions to the following Sections:

In Section 310.230, Part-time Daily or Hourly Special Services Rate, the daily and hourly rates for the Office Aide, Office Assistant, Office Associate, and Office Clerk will be upgraded to be parallel with the monthly minimum and maximum salaries of those titles already negotiated for July 1, 1998.

In Section 310.270, Legislated and Contracted Rate, the annual salary for the Arbitrator should be upgraded for July 1998.

In Section 310.280, Designated Rate, the revisions to this Section will reflect changes in salaries, the addition of new positions and deletion of positions no longer being utilized under this Section as approved by the Governor.

A Peremptory amendment will be filed to the RC-008 (Boilermakers) Collective Bargaining Unit reflecting the new negotiated salary range for the Boiler Safety Specialist.

A peremptory amendment will be filed to the NR-916 (Department of Natural Resources, Teamsters) Collecting Bargaining Unit reflecting the new salary negotiations for January 1999.

We anticipate that there will be a number of changes to the various collective bargaining tables to set forth new classes and revised salary ranges for certain classifications which are not yet identified.

Other amendments will likely be necessary although cannot be projected at this time.

B) Statutory Authority: Authorized by Section 8a(2) of the Personnel Code [20 ILCS 415/8 and 8a]

C) Schedule of date(s) for hearing, meetings, or other opportunities for public participation: Specific criticisms, suggestions and/or comments can be forwarded to the Department of Central Management Services in writing by interested persons during the First Notice Period of the Pay Plan amendments.

D) Date(s) agency anticipates First Notice(s): A proposal to amend

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 1998 REGULATORY AGENDA

Sections 310.230 and 310.270 is anticipated to be filed in August 1998.

A peremptory amendment upgrading the salary range for the Boiler Safety Specialist is anticipated to be filed in September 1998.

A peremptory amendment reflecting the negotiated salary increases for the NR-916 Collective Bargaining Unit for January 1999 will be filed after the agreement has been finalized.

The other projected amendments are anticipated to be filed at later date.

E) Affect on small businesses, small municipalities or not for profit corporations: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code under the Governor. They do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

F) Agency contact person for information:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
(217) 782-5601

G) Related rulemakings and other pertinent policies: Other amendments may be necessary based on emerging issues regarding State employee salary rates and policies.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

JULY 1998 REGULATORY AGENDA

a) Part(s) Heading and Code Citation: Adoption Services for Children the Department of Children and Family Services is legally responsible for (89 Ill. Adm. Code 309)

1) Rulemaking:

A) Description: Establishes provisions regarding grounds for termination of parental rights outlined in SB 1339

B) Statutory Authority: 20 ILCS 505

C) Scheduled meeting/hearing dates: No hearings of meetings have been scheduled

D) Date agency anticipates First Notice: Fall 1998

E) Affect on small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mr. Jerry B. Crabtree
Department of Children and Family Services
Office of Rules and Procedures
406 East Monroe, Station #65
Springfield, Illinois 62701-1498
PHONE: 217.524.1983
FAX: 217.557.0692
E-MAIL: ORPINFO@pop.state.il.us

G) Related rulemaking and other pertinent information: None

b) Part(s) Heading and Code Citation: Placement and Visitation Services (89 Ill. Adm. Code 301)

1) Rulemaking:

A) Description: Deletes race as a consideration for the placement of children to bring Illinois now into compliance with the federal Inter Ethnic Placement Act. Amends the rule to include recent changes made through permanency legislation.

B) Statutory Authority: 20 ILCS 505

C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

JULY 1998 REGULATORY AGENDA

- D) Date agency anticipates First Notice: Fall 1998
- E) Affect on small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
 Mr. Jerry B. Crabtree
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 406 East Monroe, Station #65
 Springfield, Illinois 62701-1498
 PHONE: 217.524.1983
 FAX: 217.557.0692
 E-MAIL: ORPINFO@pop.state.il.us
- G) Related rulemaking and other pertinent information: None

- c) Part(s) Heading and Code Citation: Authorized Child Care Payments (89 Ill. Adm. Code 359)

1) Rulemaking:

A) Description: Establishes payments for reunification/after care services to enable children to be returned home and maintained in their home after reunification.

B) Statutory Authority: 20 ILCS 505

C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled

D) Date agency anticipates First Notice: Fall 1998

E) Affect on small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

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DEPARTMENT OF CHILDREN AND FAMILY SERVICES

JULY 1998 REGULATORY AGENDA

- G) Related rulemaking and other pertinent information: None
- d) Part(s) Heading and Code Citation: Purchase of Service (89 Ill. Adm. Code 357)

1) Rulemaking:

A) Description: Amendments will be proposed to ensure that the Department's processes for procuring child welfare services conform to the requirements of the Illinois Procurement Code.

B) Statutory Authority: 20 ILCS 505

C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled

D) Date agency anticipates First Notice: Fall 1998

E) Affect on small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mr. Jerry B. Crabtree
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 406 East Monroe, Station #65
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 PHONE: 217.524.1983
 FAX: 217.557.0692
 E-MAIL: ORPINFO@pop.state.il.us

G) Related rulemaking and other pertinent information: None

- e) Part(s) Heading and Code Citation: Children's Accounts (89 Ill. Adm. Code 353)

1) Rulemaking:

A) Description: Establishes provisions requiring the Department to notify the issuing agency to discontinue sending Social Security, Veteran's and other benefits when the Department no longer has legal responsibility or when the child returns home while DCFS retains legal responsibility. Requires the Department to notify the parent(s) to apply for benefits. This change will facilitate the transition of payment of benefits to the parent.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

JULY 1998 REGULATORY AGENDA

- B) Statutory Authority: 20 ILCS 505
- C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled
- D) Date agency anticipates First Notice: Fall 1998
- E) Affect on small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
 Mr. Jerry B. Crabtree
 Department of Children and Family Services
 Office of Rules and Procedures
 406 East Monroe, Station #65
 Springfield, Illinois 62701-1498
 PHONE: 217.524.1983
 FAX: 217.557.0692
 E-MAIL: ORPINFO@pop.state.il.us

G) Related rulemaking and other pertinent information: None

- f) Part(s) Heading and Code Citation: Audits, Reviews and Investigations (89 Ill. Adm. Code 434)

1) Rulemaking:

- A) Description: The rulemaking will be amended to include the following changes:

Beginning with FY99 contracts, a certified audit report will be required for all entities who receive annual payments in excess of \$100,000 in any one contractual year. All references to the Office of Internal Audits will be changed to reflect the new title "Purchase of Service Monitoring Division". New provisions for the Department's new excess revenue policy will be established.

B) Statutory Authority: 20 ILCS 505

C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled

D) Date agency anticipates First Notice: Fall 1998

E) Affect on small business, small municipalities or not for profit corporations: More small businesses will not be required to

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

JULY 1998 REGULATORY AGENDA

conduct an audit.

F) Agency contact person for information:

Mr. Jerry B. Crabtree
 Department of Children and Family Services
 Office of Rules and Procedures
 406 East Monroe, Station #65
 Springfield, Illinois 62701-1498
 PHONE: 217.524.1983
 FAX: 217.557.0692
 E-MAIL: ORPINFO@pop.state.il.us

G) Related rulemaking and other pertinent information: None

- g) Part(s) Heading and Code Citation: Appeals of Child Abuse and Neglect Findings (89 Ill Adm. Code 336)

1) Rulemaking:

A) Description: The Department will amend this rulemaking in order to comply with time frames established by SB 1339 for acting upon requests from subjects of a report to amend or remove a report from the register.

B) Statutory Authority: 20 ILCS 505

C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled

D) Date agency anticipates First Notice: Fall 1998

E) Affect on small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mr. Jerry B. Crabtree
 Department of Children and Family Services
 Office of Rules and Procedures
 406 East Monroe, Station #65
 Springfield, Illinois 62701-1498
 PHONE: 217.524.1983
 FAX: 217.557.0692
 E-MAIL: ORPINFO@pop.state.il.us

G) Related rulemaking and other pertinent information: None

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

JULY 1998 REGULATORY AGENDA

- h) Part(s) Heading and Code Citation: Service Appeal Process (89 Ill. Adm. Code 337)

1) Rulemaking:

A) Description: The Department will be proposing amendments in an effort to streamline the service appeal process and redefine the issues that are appropriate for appeal.

B) Statutory Authority: 20 ILCS 505

C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled

D) Date agency anticipates First Notice: Fall 1998

E) Affect on small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mr. Jerry B. Crabtree
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FAX: 217.557.0692
E-MAIL: ORPINFO@pop.state.il.us

G) Related rulemaking and other pertinent information: None

- i) Part(s) Heading and Code Citation: Rate Setting (89 Ill. Adm. Code 356)

1) Rulemaking:

A) Description: Changes will be made to Disallowable Costs and Reduced Reimbursement and the Notice of Appeal of Provider Rates.

B) Statutory Authority: 20 ILCS 505

C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled

D) Date agency anticipates First Notice: Fall 1998

E) Affect on small business, small municipalities or not for profit

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

JULY 1998 REGULATORY AGENDA

corporations: None

F) Agency contact person for information:

Mr. Jerry B. Crabtree
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PHONE: 217.524.1983
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E-MAIL: ORPINFO@pop.state.il.us

G) Related rulemaking and other pertinent information: None

- j) Part(s) Heading and Code Citation: Licensing Standards for Day Care Homes (89 Ill. Adm. Code 406)

1) Rulemaking:

A) Description: Adds a provision to allow lunches to be sent from home and other safety requirements. Changes in health requirements for children to include the addition of immunizations for hepatitis B and the provision to allow a physician to determine if a tuberculosis test is necessary. Safety provisions that will be established include playground equipment specifications, higher fences around swimming pools, prohibitions against certain foods that cause choking in very young children, and limitations on animals that may be present with children in day care. A provision to allow declaratory rules is also being proposed.

B) Statutory Authority: 20 ILCS 505

C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled

D) Date agency anticipates First Notice: Fall 1998

E) Affect on small business, small municipalities or not for profit corporations: The Department is yet unaware of any effect this rulemaking may have on small business, small municipalities or not for profit corporations.

F) Agency contact person for information:

Mr. Jerry B. Crabtree

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

JULY 1998 REGULATORY AGENDA

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E-MAIL: ORPINFO@pop.state.il.us

- G) Related rulemaking and other pertinent information: None

- k) Part(s) Heading and Code Citation: Licensing Standards for Group Day Care Homes (89 Ill. Adm. Code 408)

1) Rulemaking:

- A) Description: Adds a provision to allow lunches to be sent from home and other safety requirements. Changes in health requirements for children to include the addition of immunizations for hepatitis B and the provision to allow a physician to determine if a tuberculosis test is necessary. Safety provisions that will be established include playground equipment specifications, higher fences around swimming pools, prohibitions against certain foods that cause choking in very young children, and limitations on animals that may be present with children in day care. A provision to allow declaratory rules is also being proposed.

- B) Statutory Authority: 20 ILCS 505

- C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled

- D) Date agency anticipates First Notice: Fall 1998

- E) Affect on small business, small municipalities or not for profit corporations: The Department is yet unaware of any effect this rulemaking may have on small business, small municipalities or not for profit corporations.

- F) Agency contact person for information:

Mr. Jerry B. Crabtree
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DEPARTMENT OF CHILDREN AND FAMILY SERVICES

JULY 1998 REGULATORY AGENDA

FAX: 217.557.0692
E-MAIL: ORPINFO@pop.state.il.us

- G) Related rulemaking and other pertinent information: None

- l) Part(s) Heading and Code Citation: Foster Parent Annual Plan (89 Ill. Adm. Code 335)

1) Rulemaking:

- A) Description: Implements the Foster Parent Law that outlines the rights and responsibilities of foster parents in Illinois. Establishes the contents of the annual plan, the process for plan approval, and the sanctions for non-compliance with the plan requirements.

- B) Statutory Authority: 20 ILCS 505

- C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled

- D) Date agency anticipates First Notice: Fall 1998

- E) Affect on small business, small municipalities or not for profit corporations: None

- F) Agency contact person for information:

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- G) Related rulemaking and other pertinent information: None

- m) Part(s) Heading and Code Citation: Day Care Information 89 Ill. Adm. Code 378

1) Rulemaking:

- A) Description: Implements HB 2583. Establishes rules for the operation of a statewide toll-free telephone number that persons

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

JULY 1998 REGULATORY AGENDA

may use to inquire about the past history of complaints on a day care facility operating in Illinois.

- B) Statutory Authority: 20 ILCS 505
- C) Scheduled meeting/hearing dates: No hearings or meetings have been scheduled
- D) Date agency anticipates First Notice: Fall 1998
- E) Affect on small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Mr. Jerry B. Crabtree
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PHONE: 217.524.1983
FAX: 217.557.0692
E-MAIL: ORPINFO@pop.state.il.us

G) Related rulemaking and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of July 14, 1998 through July 20, 1998 and have been scheduled for review by the Committee at its August 18, 1998 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
8/27/98	Department of Children and Family Services, Reports of Child Abuse and Neglect (89 Ill Adm Code 300)	5/8/98 22 Ill Reg 7802	8/18/98
8/27/98	State Board of Education, Charter Schools (23 Ill Adm Code 650)	4/3/98 22 Ill Reg 6005	8/18/98
8/27/98	Department of Professional Regulation, Respiratory Care Practice Act (68 Ill Adm Code 1456)	5/22/98 22 Ill Reg 8756	8/18/98
8/27/98	Department of Revenue, Motor Fuel Tax (86 Ill Adm Code 500)	5/15/98 22 Ill Reg 8371	8/18/98
8/27/98	Department of Transportation, Minimum Safety Standards for Construction of Type I School Buses (92 Ill Adm Code 440)	3/27/98 22 Ill Reg 5833	8/18/98
8/28/98	Illinois Gaming Board, Riverboat Gambling (86 Ill Adm Code 3000)	4/24/98 22 Ill Reg 7097	8/18/98
8/28/98	Pollution Control Board, Site Remediation Program (35 Ill Adm Code 740)	5/1/98 22 Ill Reg 7483	8/18/98
8/29/98	Department of Insurance, Securities Custody Affidavit (50 Ill Adm Code 4425)	5/1/98 22 Ill Reg 7444	8/18/98

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

8/29/98	Department of Human Services, Food Stamps (89 Ill Adm Code 121)	5/15/98 22 Ill Reg 8258	8/18/98
8/29/98	Department of Human Services, Provider Requirements, Type Services, and Rates of Payment (89 Ill Adm Code 686)	5/15/98 22 Ill Reg 8272	8/18/98
8/29/98	Department of Human Services, Related Program Provisions (89 Ill Adm Code 117)	5/15/98 22 Ill Reg 8278	8/18/98

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ISSUES INDEX

July 31, 1998

Rules acted upon during the quarter of April 1 through June 30, 1998 (Issues 1-13) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-40. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jntale@ccgate.sos.state.il.us (Internet address).

PROPOSED

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[illegible]

ILLINOIS REGISTER
ADMINISTRATIVE CODE ORDER FORM

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GEORGE H. RYAN
SECRETARY OF STATE
INDEX DEPARTMENT
111 E. MONROE
SPRINGFIELD, IL 62756

MEMORANDUM FOR THE RECORD

PLEASE USE THIS FORM TO REPORT THE RESULTS OF YOUR RESEARCH. THE INFORMATION REPORTED HEREON WILL BE USED FOR THE PURPOSES OF THE RESEARCH PROGRAM. THE INFORMATION REPORTED HEREON WILL BE USED FOR THE PURPOSES OF THE RESEARCH PROGRAM.

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TITLE: _____
INSTITUTION: _____

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CITY: _____ STATE: _____ ZIP: _____

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Chicago Form 1